

port the passage of the Cureton Bank Guarantee Deposit bill. Answer.

C. HAUGHTON,
Chairman Legislative Board, Labor Council.

HENRY W. ERABE,
Secretary Labor Council.
M. E. SHAY,
President Labor Council.

By Senator Peeler:

Marble Falls, Texas, April 6, 1909.

Hon. J. L. Peeler, Austin, Texas:

We, your constituents, would respectfully suggest that you vote for and use your influence towards the enactment of the proposed Bank Guarantee. We would especially appreciate your influence in this direction from the fact that we now labor under the disadvantage that this bill, if enacted, will alleviate. Numerous signed.

By Senator Perkins:

Celeste, Texas, April 6, 1909.

Tom W. Perkins, Senator, Austin, Tex.

Stand pat on Senter-Hume bill.

CELESTE STATE BANK,
G. K. CHEATHAM, Cashier.

By Senator Sturgeon:

Ladonia, Texas, April 6, 1909.

Hon. B. B. Sturgeon, Austin, Texas.

Dear Sir: We commend your courageous stand for the Senter-Hume statute, and urge you to stand firm against the encroachment of socialistic and populist encroachments in individual rights.

W. E. Weldon, Sam Primm, S. E. Bartley, H. L. Hooks, Luther Kean, Linton Fry, C. H. Weldon, Geo. L. Crofford, J. D. Fraley, W. O. Nunn, H. L. Graves, H. P. Erwin, H. C. Light, W. H. Burton, Lucian Fry, E. P. Morning, S. C. Relyea, H. C. Wartell, Louie Wartell, W. G. Nunn, J. F. McFarland, J. B. Haden, M. F. Wise, Sam Roberts, Tom H. Bell, G. W. Stone, G. M. Evans, J. Womack, E. W. Cummins, and others.

EIGHTEENTH DAY.

Senate Chamber,

Austin, Texas,

Thursday, April 8, 1909.

Senate met pursuant to adjournment, Lieutenant Governor A. B. Davidson presiding.

The roll was called, a quorum being present, the following Senators answering to their names:

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Veale.
Kellie.	Ward.
Masterson.	Watson.
Mayfield.	Weinert.
Meachum.	Willacy.
Murray.	

Absent.

Hume.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Cofer, the same was dispensed with.

There being no bills and resolutions, the morning call was declared concluded.

HOUSE CONCURRENT RESOLUTION NO. 3.

The Chair laid before the Senate, as regular order,

House Concurrent Resolution No. 3, Relative to Southern representation in the diplomatic service.

The committee report, which provided that the resolution be not printed, was adopted.

The resolution was read and adopted by the following vote:

Yeas—25.

Adams.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Kellie.	Veale.
Masterson.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.
Paulus.	

Nays—3.

Alexander.	Hudspeth.
Brachfield.	

Absent.

Hume.

Stokes.

FIRST HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, April 8, 1909.

Hon. A. B. Davidson, President of the
Senate.

Sir: I am directed by the House to
inform the Senate that the House has
passed the following:

House bill No. 121, A bill to be entitled
"An Act to prevent the keeping of cer-
tain fruit trees affected with yellows,
crown-gall, black knot, or any tree, shrub
or plant infested with or by the San
Jose scale, white fly or other dangerous,
injurious or destructive pests or diseases
and declaring such affected and infested
trees, shrubs and plants a public nu-
isance, and making it the duty of the
Commissioner of Agriculture or his
agents or employes to seek out and de-
stroy such trees, shrubs and plants, or
cause the same to be done, or to have
such affected or infested trees treated;
and providing the manner of such treat-
ment and destruction, and for certain in-
vestigations by the Commissioner of Ag-
riculture; providing the manner of com-
bating such diseases and pests, and pre-
venting their spread and dissemination;
providing for the inspection of orchards,
nurseries, forest trees and greenhouse
plants and giving certificates to that
effect; regulating alien individuals and
alien nursery companies or corporations
doing business in this State; regulating
the importation of trees, shrubs, plants
and all nursery stock from without the
State, and regulating their transporta-
tion within the State; forbidding the
selling, consignment or shipping of nur-
sery stock, cuttings, plants, shrubs, for-
est trees, evergreens, ornamental and cut
flowers without such certificate; provid-
ing for the fumigation of certain trees,
shrubs and plants; defining a nursery
and nursery stock; defining an agent for
a nursery or nursery stock; defining a
dealer in nursery stock; defining being
in the nursery business; authorizing the
Commissioner of Agriculture to adopt
certain rules and regulations and to ap-
point a chief inspector of trees, shrubs
and plants for this State and prescribing
and defining the qualifications of such
chief inspector, and to employ other as-
sistants, agents and experts, and fixing
their compensation; fixing fees for in-
spection; fixing penalties for violation
of any of the provisions of this act, and

directing the disposal of penalties col-
lected under the provisions of this act;
fixing the duties of city administrations,
owners of parks and city residences, to
obey rules and regulations of Commis-
sioner of Agriculture and to co-operate
with the Commissioner of Agriculture;
providing that agents for nurseries shall
have credentials and defining their du-
ties; repealing all laws and parts of
laws in conflict herewith, and declaring
an emergency."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

BILL READ AND REFERRED.

The Chair (Lieutenant Governor Da-
vidson) had referred, after its caption
had been read, the following House bill
(see above House Message for caption
of):

House bill No. 121, referred to Com-
mittee on Agricultural Affairs.

(Senator Peeler in the chair.)

SENATE CONCURRENT RESOLU-
TION NO. 3.

On motion of Senator Murray, the
regular order of business (House bill
No. 126) was suspended, and the Sen-
ate took up, out of its order, Senate
Concurrent Resolution No. 3, by the
following vote:

Yeas—26.

Adams.	Meachum.
Alexander.	Murray.
Brachfield.	Paulus.
Bryan.	Peeler.
Cofer.	Perkins.
Greer.	Real.
Harper.	Senter.
Hayter.	Sturgeon.
Holsey.	Terrell of McLennan.
Hudspeth.	Veale.
Kellie.	Watson.
Masterson.	Weinert.
Mayfield.	Willacy.

Absent.

Hume.
Stokes.Terrell of Bowie.
Ward.

The Chair laid before the Senate
Senate Concurrent Resolution No. 3,
Be it resolved by the Senate, the House
concurring, That our representatives in
the United States Congress be, and they
are hereby requested to use their best

efforts to have a law passed authorizing the Secretary of Commerce and Labor to co-operate through the Bureau of the Coast and Geodetic Survey and the Bureau of Fisheries with the Fish and Oyster Commissioner of the State of Texas in making surveys of the natural oyster beds, bars and rocks in the Gulf waters upon the coast of Texas, and also to investigate the practicability of the protection and propagation of the fish in the bays and gulf coast of Texas, and there is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of \$5000, or so much thereof as may be necessary to be used by the Governor of the State in such manner as in his judgment may be necessary in co-operating with and in aid of the United States departments, in case they undertake to make such a survey or examination as hereinabove indicated within the next two years.

Be it further resolved, That the Governor be and he is hereby requested to furnish the Texas members of the House and Senate of the United States Congress with copies of this resolution and to use his good office in securing the necessary legislation by Congress to carry into effect the purposes as indicated in this resolution.

The committee report, which provided that the resolution be not printed, was adopted.

Senator Murray offered the following amendment, which was read and adopted:

Amend the resolution by adding after the words "protection and propagation of the fish" the words "and oysters."

The resolution was read and adopted by the following vote:

Yeas—24.

Adams.	Meachum.
Alexander.	Murray.
Brachfield.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Sturgeon.
Hayter.	Terrell of McLennan.
Hudspeth.	Veale.
Kellie.	Watson.
Masterson.	Weinert.
Mayfield.	Willacy.

Absent.

Holsey.	Stokes.
Hume.	Terrell of Bowie.
Paulus.	Ward.

HOUSE BILL NO. 126.

The Chair laid before the Senate, on second reading and regular order,

House bill No. 126, A bill to be entitled "An Act to amend Section 53 of Chapter 51 of the General Laws of the Twenty-third Legislature, entitled 'An Act to create a more efficient road system in the counties of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Harrison, Panola, Upshur, Shelby and Smith, and auxiliary thereto; to provide for the appointment of road overseers; to define the powers and jurisdiction of the commissioners courts of said counties with regard thereto; to utilize the labor of defaulting poll taxpayers on the public roads of said counties; and to provide adequate penalties for the violation of this act, approved April 19, 1893,' as amended by Chapter 131 of the General Laws of the Twenty-fourth Legislature, entitled 'An Act to amend Chapter 51, Sections 1, 2, 33, 53 and 54 of the Acts of the Twenty-third Legislature, entitled 'An Act to create a more efficient road system in the counties of Cherokee, Houston, Anderson, Trinity, Franklin, Delta, Harrison, Panola, Upshur, Shelby, Smith and Rusk and auxiliary thereto,' etc., by reducing the number of days persons may be compelled to work on the public roads in Upshur county from ten days to five days in each year, and declaring an emergency."

The committee report, which provided that the bill be not printed, was adopted.

Bill read second time, and passed to third reading.

On motion of Senator Greer, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put on its third reading and final passage by the following vote:

Yeas—23.

Adams.	Meachum.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Sturgeon.
Harper.	Terrell of Bowie.
Hayter.	Veale.
Holsey.	Watson.
Hudspeth.	Weinert.
Masterson.	Willacy.
Mayfield.	

Absent.

Hume.	Murray.
Kellie.	Paulus.

Stokes. Ward.
Terrell of McLennan.

The bill was read third time, and passed by the following vote:

Yeas—24.

Adams.	Meachum.
Alexander.	Murray.
Brachfield.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Veale.
Hudspeth.	Watson.
Masterson.	Weinert.
Mayfield.	Willacy.

Absent.

Hume. Terrell of
Kellie. McLennan.
Paulus. Ward.
Stokes.

Senator Greer moved to reconsider the vote by which the bill was passed, and lay that motion on the table. The motion to table prevailed.

SENATE BILL NO. 85.

On motion of Senator Hudspeth, the regular order of business (Senate bill No. 56) was suspended, and the Senate took up, out of its order, Senate bill No. 85, by the following vote:

Yeas—25.

Adams.	Meachum.
Alexander.	Murray.
Brachfield.	Paulus.
Bryan.	Peeler.
Cofer.	Perkins.
Greer.	Real.
Harper.	Senter.
Hayter.	Sturgeon.
Holsey.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Hume.	Watson.
Masterson.	Willacy.
Mayfield.	

Absent.

Kellie. Ward.
Stokes. Weinert.
Veale.

The Chair laid before the Senate, on second reading,
Senate bill No. 85, A bill to be entitled

"An Act creating and incorporating the Bronte Independent School District, in Coke county, Texas," etc.

The committee report, which provided that the bill be not printed, was adopted.

Bill read second time, and ordered engrossed.

On motion of Senator Hudspeth, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put on its third reading and final passage by the following vote:

Yeas—24.

Adams.	Meachum.
Alexander.	Murray.
Brachfield.	Paulus.
Bryan.	Peeler.
Cofer.	Perkins.
Greer.	Real.
Hayter.	Senter.
Holsey.	Sturgeon.
Hudspeth.	Terrell of Bowie.
Hume.	Veale.
Masterson.	Watson.
Mayfield.	Willacy.

Absent.

Harper. Terrell of McLennan.
Kellie. Ward.
Stokes. Weinert.

The bill was read third time, and passed.

SENATE BILL NO. 86.

On motion of Senator Hudspeth, the regular order of business (Senate bill No. 56) was suspended, and the Senate took up, out of its order, Senate bill No. 86, by the following vote:

Yeas—22.

Adams.	Mayfield.
Alexander.	Meachum.
Brachfield.	Murray.
Bryan.	Paulus.
Cofer.	Peeler.
Greer.	Perkins.
Hayter.	Real.
Holsey.	Senter.
Hudspeth.	Terrell of Bowie.
Hume.	Veale.
Masterson.	Willacy.

Nays—1.

Watson.

Absent.

Harper.	Terrell of McLennan.
Kellie.	Ward.
Stokes.	Weinert.
Sturgeon.	

The Chair laid before the Senate, on second reading,

Senate bill No. 86, A bill to be entitled "An Act creating and incorporating the Robert Lee Independent School District," etc.

The committee report, which provided that the bill be not printed, was adopted.

Bill read second time, and ordered engrossed.

On motion of Senator Hudspeth, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put on its third reading and final passage by the following vote:

Yeas—23.

Adams.	Meachum.
Alexander.	Murray.
Brachfield.	Paulus.
Bryan.	Peeler.
Cofer.	Perkins.
Greer.	Real.
Hayter.	Senter.
Holsey.	Terrell of Bowie.
Hudspeth.	Veale.
Hume.	Watson.
Masterson.	Willacy.
Mayfield.	

Absent.

Harper.	Terrell of McLennan.
Kellie.	Ward.
Stokes.	Weinert.
Sturgeon.	

The bill was read third time, and passed.

REASON FOR VOTING.

I voted "yea" on Senate bills Nos. 85 and 86, being local measures offered by Senator Hudspeth, yet I am of the opinion that they are unconstitutional, because they were not submitted by the Governor, and the Constitution requires that all measures shall be submitted by the Governor in extra session before they can be discussed or passed by the Legislature, yet it has been a common custom for years to vote unanimously for all local measures as a common courtesy to Senators and Representatives offering them, and, in voting for these bills, I only did it as a courtesy

to Senator Hudspeth, believing that the Governor will not approve them.

HOLSEY.

HOUSE BILL NO. 123.

On motion of Senator Watson, the regular order of business (Senate bill No. 56) was suspended, and the Senate took up, out of its order, House bill No. 123, by the following vote:

Yeas—24.

Adams.	Mayfield.
Alexander.	Meachum.
Brachfield.	Murray.
Bryan.	Paulus.
Cofer.	Peeler.
Greer.	Perkins.
Harper.	Real.
Hayter.	Senter.
Holsey.	Terrell of Bowie.
Hume.	Veale.
Kellie.	Watson.
Masterson.	Willacy.

Absent.

Hudspeth.	Terrell of McLennan.
Stokes.	Ward.
Sturgeon.	Weinert.

On motion of Senator Watson, the Senate rule requiring committee reports to lie over for one day was suspended, for the purpose of considering this bill (see Appendix for committee report), by the following vote:

Yeas—26.

Adams.	Meachum.
Alexander.	Murray.
Brachfield.	Paulus.
Bryan.	Peeler.
Cofer.	Perkins.
Greer.	Real.
Harper.	Senter.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hume.	Veale.
Kellie.	Ward.
Masterson.	Watson.
Mayfield.	Willacy.

Absent.

Hudspeth.	Sturgeon.
Stokes.	Weinert.

The Chair laid before the Senate, on second reading,

House bill No. 123, A bill to be entitled "An Act amending Section 37 of an act passed by the Regular Session of the Thirty-first Legislature, approved March

22, 1909, so as to provide that no company shall transact the business of life insurance in this State whose charter authorizes it to do a fire, marine, lightning, tornado or inland insurance business; and that no company shall take fire, marine or inland risks which is authorized to do a life or health insurance business in this State, and declaring an emergency."

The committee report, which provided that the bill be not printed, was adopted.

Bill read second time, and ordered engrossed.

On motion of Senator Watson, the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas—23.

Adams.	Murray.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Terrell of Bowie.
Hayter.	Veale.
Hume.	Ward.
Kellie.	Watson.
Mayfield.	Willacy.
Meachum.	

Nays—1.

Holsey.

Absent.

Hudspeth.	Terrell of
Masterson.	McLennan.
Stokes.	Weinert.
Sturgeon.	

The bill was read third time, and passed by the following vote:

Yeas—22.

Adams.	Meachum.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Terrell of Bowie.
Hayter.	Veale.
Hume.	Watson.
Kellie.	Weinert.
Mayfield.	Willacy.

Nays—1.

Holsey.

Absent.

Hudspeth.
Masterson.
Murray.
Stokes.

Sturgeon.
Terrell of McLennan.
Ward.

Senator Watson moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

SIMPLE RESOLUTION.

By Senator Watson:

Whereas, The Senate Journal of April 2, page 171, shows that Senator Watson offered as a substitute for Senate bill No. 4 the bill printed on pages 171 to 174, inclusive of the Senate Journal; and

Whereas, The said substitute bill so offered by Watson was in fact the Senter-Hume bill, which by request of said authors, was signed by Masterson, Perkins, Adams, Real, Murray, Kellie, Weinert, Paulus, Hudspeth, Sturgeon, Willacy, Greer and Peeler with said Senter and Hume as joint authors; therefore, be it

Resolved by the Senate, That the Journal be corrected so as to show that said substitute so offered was in fact the Senter-Hume banking bill and that this resolution be printed in today's Journal.

The resolution was read and adopted.

SENATE BILL NO. 56.

The Chair laid before the Senate, on second reading and regular order,

Senate bill No. 56, A bill to be entitled "An Act defining and regulating fraternal beneficiary associations and repealing Chapter 115 of the General Laws of the Twenty-sixth Legislature of the State of Texas, as amended by Chapter 86 of the General Laws of the Twenty-seventh Legislature, and by Chapter 113 of the Twenty-eighth Legislature, and by Chapter 106 of the General Laws of the Twenty-ninth Legislature."

There being a favorable majority committee report and an adverse minority committee report.

On motion of Senator Senter the majority committee report was adopted.

HOUSE BILL NO. 122.

On motion of Senator Murray, the pending order of business (Senate bill

No. 56) was suspended, and the Senate took up, out of its order, House bill No. 122, by the following vote:

Yeas—27.

Adams.	Murray.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Terrell of Bowie.
Hayter.	Terrell of McLennan.
Holsey.	Veale.
Hudspeth.	Ward.
Kellie.	Watson.
Masterson.	Weinert.
Mayfield.	Willacy.
Meachum.	

Absent.

Hume.	Sturgeon.
Stokes.	

On motion of Senator Murray, the Senate rule requiring committee reports to lie over one day was suspended, for the purpose of considering this bill (see Appendix for committee report), by the following vote:

Yeas—28.

Adams.	Murray.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Veale.
Kellie.	Ward.
Masterson.	Watson.
Mayfield.	Weinert.
Meachum.	Willacy.

Absent.

Hume.	Stokes.
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The Chair laid before the Senate, on second reading,

House bill No. 122, A bill to be entitled "An Act creating an independent school district to be known as the Goliad Independent School District, including within its limits the unincorporated town of Goliad, in Goliad county, and to provide for a board of trustees and other officers of such district; to authorize the board of trustees to levy, assess and collect special taxes, and to issue and dispose of bonds of such district for the purpose of purchasing

school sites, and erecting, repairing, furnishing and equipping school buildings within the same, and to pay current expenses in the maintenance and support of the public schools therein, and to further prescribe the duties and authorities of said board of trustees, and declaring an emergency," with engrossed rider.

The committee report, which provided that the bill be not printed, was adopted.

Bill read second time, and passed to a third reading.

On motion of Senator Murray, the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas—25.

Adams.	Meachum.
Alexander.	Murray.
Brachfield.	Paulus.
Bryan.	Peeler.
Cofer.	Perkins.
Greer.	Senter.
Harper.	Sturgeon.
Hayter.	Terrell of McLennan.
Holsey.	Veale.
Hudspeth.	Ward.
Kellie.	Weinert.
Masterson.	Willacy.
Mayfield.	

Absent.

Hume.	Terrell of Bowie.
Real.	Watson.
Stokes.	

The bill was read third time, and passed by the following vote:

Yeas—25.

Adams.	Meachum.
Alexander.	Murray.
Brachfield.	Paulus.
Bryan.	Peeler.
Cofer.	Perkins.
Greer.	Senter.
Harper.	Sturgeon.
Hayter.	Terrell of McLennan.
Holsey.	Veale.
Hudspeth.	Ward.
Kellie.	Weinert.
Masterson.	Willacy.
Mayfield.	

Absent.

Hume.	Terrell of Bowie.
Real.	Watson.
Stokes.	

Senator Murray moved to reconsider the vote by which the bill was passed, and lay that motion on the table.
The motion to table prevailed.

BILL ORDERED PRINTED IN JOURNAL.

Senator Hudspeth here reported from the committee House bill No. 1, and moved that House bill No. 1 be printed in full in the Journal.

The motion prevailed.
(See Appendix for committee reports and the bill in full.)

SECOND HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, April 8, 1909.
Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House concurs in Senate amendments to House bill No. 118, by the following vote: Yeas, 114; nays, 0.

Also concurs in Senate amendments to House bill No. 3.

Does not concur in Senate amendments to House bill No. 17, and requests a Conference Committee be appointed. The following has been appointed on part of the House: Messrs. O'Bryan, Standifer, Fuller, McLain and Terrell of Bexar.

Also refused to concur in Senate amendments to House bill No. 11, and requests a Free Conference Committee be appointed. The following has been appointed on part of the House: Messrs. Terrell of Cherokee, Jackson, Munson, Chaney and Anderson.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

HOUSE BILL NO. 17—CONFERENCE COMMITTEE ON.

The Chair (President Pro Tem. Brachfield) announced the following Conference Committee on part of the Senate as requested by the House on House bill No. 17: Senators Willacy, Ward, Alexander, Cofer and Meachum.

(President Pro Tem. Brachfield in the chair.)

SENATE BILL NO. 56.

Action recurred on Senate bill No. 56 (see former proceedings for caption).

The question on the bill being the engrossment of same.

Senator Meachum moved that the bill be considered by sections, which motion was adopted.

(Section 3.)

There being no amendments to Sections 1 and 2, Section 3 was taken up.

Senator Meachum offered the following amendment, which was read and adopted:

Amend the bill by striking out all after the word "purpose," in line 4 of Section 3, page 2, and insert a period after "purpose" instead of a comma.

(Section 4.)

Senator Terrell of Bowie offered the following amendment, which was read and adopted:

Amend the bill by striking out lines 10, 11 and the word "years" in line 12, page 2.

(Section 5.)

Senator Alexander offered the following amendment, which was read and adopted:

Amend Section 5, page 2, by striking out all of line 22 and all of line 23 except the last word of the line.

RECESS.

Senator Hudspeth moved that the Senate recess until 3 o'clock today, and Senator Cofer moved, as a substitute, that the Senate recess until 2:30 o'clock today.

Action being on the longest time first, the motion to recess until 3 o'clock was adopted by the following vote:

Yeas—16.

Adams.	Peeler.
Alexander.	Perkins.
Bryan.	Real.
Hudspeth.	Senter.
Hume.	Terrell of McLennan.
Kellie.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Nays—11.

Brachfield.	Mayfield.
Cofer.	Sturgeon.
Greer.	Terrell of Bowie.
Harper.	Veale.
Hayter.	Ward.
Holsey.	

Absent.

Masterson.
Paulus.

Stokes.

AFTER RECESS.

The Senate was called to order by
President Pro Tem. Brachfield.

SENATE BILL NO. 56.

Action occurred on Senate bill No. 56.

(Section 6.)

Senator Meachum offered the following amendment, which was read and adopted:

Amend the bill, Section 6, page 3, line 2, by striking out all after the word "association," in said line 2, down to the word "nothing," in line 5, and insert in lieu thereof the following: "Provided, that it shall not be compulsory upon such association, but, at its election, it may require a beneficiary member who has passed a medical examination and thereafter applies for disability benefits to pass an additional medical examination, but any such application and the action taken thereon shall be in accordance with the rules and regulations adopted and published by the association with respect thereto."

MEACHUM,
SENTER.

(Section 2.)

Senator Hayter offered the following amendment, which was read and adopted:

Amend the bill by adding at the end of Section 2 the following:

"Section 2a. A Representative Form of Government Defined.—Any association shall be deemed to have a representative form of government when it shall provide in its constitution and laws for a supreme legislative or governing body, composed of the representatives elected by the members, or by delegates elected directly or indirectly by the members, together with such other members as may be prescribed by its constitution and by-laws; provided, that the elective representatives shall constitute a majority in number and have not less than a majority of the votes, nor less than the votes required to amend its constitution and by-laws; and provided further, that the meetings of the supreme or governing body and the election of officers shall be held as often as once in four years."

(Section 5.)

Senator Meachum offered the following amendment, which was read and adopted:

Amend the bill, Section 5, page 2, by inserting a "period" after the word "association," in line 26, instead of a "comma," and then striking out all of the remainder of said section thereafter.

THIRD HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, April 8, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

Senate bill No. 4, A bill to be entitled "An Act to require each corporation organized under the laws of this State to do a banking business or to receive funds on deposit to file annually with the Superintendent of Banking for the State a bond, or policy of insurance, or other guaranty of indemnity, to be approved by the county judge of the county in which such business is domiciled and by such Superintendent, to secure the depositors in such bank or other depository at such time for the succeeding year, and fixing the terms of such bond, policy of insurance, or other guaranty of indemnity, and authorizing any other person, firm or corporation doing a banking business in the State, or receiving funds on deposit, to take the benefit of the provisions of this act, and providing for the issuance of certificates, by the Superintendent of Banking, showing compliance with the provisions of this act, and providing for the enforcement of the terms and conditions of such bond or policy of insurance or other guaranty of indemnity, and providing for the forfeiture of the charter of any corporation organized under the laws of this State to do a banking business or to receive funds on deposit which shall fail or refuse to comply with the provisions of this act, and providing that any corporation not incorporated under the laws of Texas, and transacting business in the State under a permit therefrom which shall violate the provisions of this act shall not receive another permit from the State, and that the makers or signers as sureties of any bond or policy of insurance or other

guaranty of indemnity executed hereunder upon making payments thereunder shall be subrogated to the rights of the depositors for whose benefit such payments shall be made, and providing penalties for the violation of the provisions of this act and for their enforcement, and declaring an emergency," with amendments.

Respectfully,
BOB BARKER,
Chief Clerk, House of Representatives.

FOURTH HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, April 8, 1909.
Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

Senate bill No. 74, A bill to be entitled "An Act to make it the duty of the Commissioner of Agriculture to inquire into the present system of irrigation as applied to the rice industry and other products, the character of rates and contracts used on irrigating canals, to make public his report from time to time and to transmit same to the Governor and the Legislature, giving him power and authority to employ an engineer and expert to assist him when necessary in said work, and declaring an emergency."

Respectfully,
BOB BARKER,
Chief Clerk, House of Representatives.
(Lieutenant Governor Davidson in the chair.)

SENATE BILL NO. 4—FREE CONFERENCE COMMITTEE ON

Senator Hudspeth called up

Senate bill No. 4, A bill to be entitled "An Act to create a State Banking Board; to define its powers and duties; to provide for a depositors' guaranty fund under the supervision of said board, and fixing the conditions and terms by which banks and trust companies may avail their depositors of the benefit of said fund; fixing the amounts to be paid for the creation of said fund and the manner and time of payments; fixing the manner of management and administration of said fund; authorizing certain advertising privileges to such banks, and providing a penalty for the unauthorized use of such advertising privileges, and declaring an emergency,"

And moved that the Senate do not concur in the House amendments to the bill, and requested a Free Conference Committee.

Senator Terrell of Bowie moved, as a substitute, that the Senate concur in the House amendments.

Pending discussion on the motions, Senator Alexander moved the previous question on the pending motions, which motion being duly seconded, was so ordered.

Action then recurred on the substitute motion, which was to concur in the House amendments, which motion was lost by the following vote:

Yeas—12.

Brachfield.	Mayfield.
Bryan.	Stokes.
Cofer.	Terrell of Bowie.
Harper.	Terrell of McLennan.
Hayter.	Veale.
Holsey.	Ward.

Nays—18.

Adams.	Paulus.
Alexander.	Peeler.
Greer.	Perkins.
Hudspeth.	Real.
Hume.	Senter.
Kellie.	Sturgeon.
Masterson.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Action recurred on the motion to not concur in the House amendments and request a Free Conference Committee, which motion was adopted by the following vote:

Yeas—29.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Greer.	Senter.
Harper.	Stokes.
Hayter.	Sturgeon.
Holsey.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Hume.	Veale.
Kellie.	Ward.
Masterson.	Watson.
Mayfield.	Weinert.
Meachum.	Willacy.
Murray.	

Nays—1.

Cofer.

Following are the House amendments to Senate bill No. 4:

(1)

Amend the bill by striking out all preceding the enacting clause and insert in lieu thereof the following:

An Act to provide for the more effective regulation and supervision of banks of deposit or discount, or both of deposit and discount and banking and trust companies in this State, incorporated under and by virtue of the provisions of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas, and known as the State Banking Law, providing additional safeguards for the protection of the depositors and other creditors of such institutions; providing that all institutions shall be mutually liable pro rata within certain limitations for the payment of the liabilities of each such institution to its guaranteed depositors, and defining the guaranteed deposits and the guaranteed depositors of such institutions; providing for the creation of a State Banking Board, and describing its powers and duties; prescribing additional powers and duties of the Commissioner of Insurance and Banking, and providing for the issuance by such Commissioner of all charters for such institutions; requiring all such institutions to hereafter hold certificates of authority to transact the banking business; providing for the creation of the State Bank Guaranty Fund, and for its maintenance and use in the payment of guaranteed depositors of such institutions; providing for the making good of any impairment of the capital stock of such institutions; prescribing the conditions upon which it shall be the duty of the Commissioner of Insurance and Banking or the State Banking Board, to close and take possession of the property and business of such institutions, and providing for their liquidation, and for the payment of their liabilities to their guaranteed depositors out of the State Bank Guaranty Fund; providing the amount of capital stock required to be maintained by such institutions in proportion to their deposits; providing for frequent and thorough examination of State banks and other banks subject by law to examination and supervision, and for the appointment of the necessary number of examiners for that purpose, and providing for their compensation; prescribing the terms upon which State banks may make loans upon the collateral security of their own shares of stock; limiting the indebtedness of State banks; regulating the pledging of

their securities as collateral for money borrowed, and the making of loans upon the collateral security of shares of stock in other banking corporations; prescribing the time within which the loans of State banks shall mature; prescribing an oath to be taken by directors of State banks; and requiring reports to be made at regular meetings of the board of loans and discounts made during the preceding month; making it a penal offense for officers or employees of State banks to embezzle, abstract or wilfully misapply its money, funds or securities, or to issue evidences of indebtedness or bind such banks for the payment of any indebtedness without the authority of the board of directors, or to aid, or abet, any such offense, or for an active officer of a State bank to unlawfully borrow any of its funds, or for an officer or director to loan or consent to the loaning of its funds unlawfully to an active officer, or for the Commissioner of Insurance and Banking, or any examiner or special agent to fail and refuse to give notice of violations of the criminal provisions of the laws of this State coming to their attention, or for any officer, director, agent or employee of any State bank to knowingly and wilfully do any act, as such, expressly forbidden by law, or to omit to perform any duty imposed by law, or for any officer or director of a State bank to make or concur in, or consent to, the making of any loan not authorized by law, or for any officer, clerk or agent of any State bank to certify any check before the amount thereof shall have been regularly entered to the credit of the drawer thereof; providing that National banking associations shall avail themselves of certain provisions of this act; and providing that any bank or trust company created by virtue of a special act of the Legislature of Texas under certain conditions may avail itself of the provisions of this act; to prohibit any officer or employee from becoming indebted to or financially interested, other than as a depositor, in any State bank or State banking and trust company, and providing for penalties for violations; and providing for the establishment of savings departments and for their regulation, and generally defining offenses against the banking laws of this State, and prescribing penalties for all such offenses so defined, and declaring an emergency.

(2)

Amend the bill by striking out all

following the enacting clause and insert in lieu thereof the following:

Section 1. On and after the first day of January, 1910, all banks of deposit or discount, or of both deposit and discount, and banking and trust companies in this State, organized, or that may hereafter be organized, under and by virtue of the provisions of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas, and known as the State Banking Law, shall be liable pro rata, in the manner and proportion and to the extent hereinafter provided for the payment of all the liabilities of each such banking or other corporation to its guaranteed depositors as hereinafter defined. All of the classes of banking corporations above referred to shall for the purposes of this act, be classed and known and hereafter referred to as "State banks."

Sec. 2. All the liabilities of State banks other than liabilities to stockholders on account of stock owned by them, except debts due by such banks for which they have given collateral or other security, and debts due depositors, or other persons, upon which such State banks or any person for them or on their behalf have directly or indirectly paid or agreed to pay, or have become liable in law to pay, any interest, bonus, commission or other compensation whatever, shall be considered and defined and hereinafter referred to as their "guaranteed deposits," and the persons to whom such liabilities are or may become due and payable, shall be considered and defined and hereinafter referred to as their "guaranteed depositors."

Sec. 3. For the purpose of carrying out and enforcing the provisions of this act, there is hereby created the State Banking Board which shall be composed of the Commissioner of Insurance and Banking who is hereafter referred to in this act as the Commissioner, the Attorney General and a citizen of this State who shall be appointed by the Governor of this State, and who, prior to his appointment, shall have had five years' experience as an active officer of a bank and who shall receive as his compensation as a member of the State Banking Board, the sum of \$10 per day for each day while engaged in active discharge of his duties as a member of said Board. Immediately after this act shall take effect, said Board shall cause to be made by the State bank examiners, who are hereby placed under the direction and control of said Board

for that purpose, a full and careful examination of the affairs of each and every State bank doing business in this State, for the purpose of ascertaining its financial condition, the character, amount and values of its assets, the extent of its liabilities, the financial responsibility of its stockholders, the moral character, previous occupation, competency and business qualifications of its officers and directors, and such other facts as said Board may deem advisable and may direct; and said Board shall require a full and detailed report of such examination of each such corporation, to be made by the State Bank Examiner making such examination, under his oath of office, such report to be filed with said Board not later than the first day of December, 1909. It shall be the duty of the State Banking Board, from time to time after this act shall take effect, and prior to January 1, 1910, as the reports of examinations provided for in this section shall be filed with it, to consider and pass upon such reports, and to determine therefrom, and from such additional facts as may be submitted for its consideration or as it may ascertain from other investigation, whether such State bank is solvent and its capital stock unimpaired, and whether its officers and directors are of good moral character, competent, and possess the necessary qualifications for properly discharging the duties incumbent upon them as such officers or directors and whether it is entitled under the laws of this State to continue to transact a banking business. Said Board shall keep a record of its proceedings and findings relative to each bank considered and passed upon, and shall file a certified copy thereof, signed by each member of said Board, in the office of the Commissioner, which shall be by him duly recorded in a book to be kept for that purpose. The said Board shall not certify its approval of any State bank as being entitled to continue to transact a banking business or its approval of the chartering of any State bank, as provided in Section 5 of this act, unless it shall find the officers and directors of such bank to be of good moral character, competent and possessing the necessary qualifications to properly discharge the duties incumbent or to be incumbent upon them as such officers or directors.

Sec. 4. It shall be the duty of the Commissioner to issue to each State bank which the State Banking Board shall have approved and certified to him, as provided in the preceding sec-

tion, as being entitled to continue to transact a banking business, a certificate of authority in such form as the State Banking Board may approve, to be signed by him under his official seal, certifying that such State bank is authorized, under the laws of this State, to continue to engage in the banking business. The Commissioner shall close all State banks which the State Banking Board shall disapprove, and shall determine not to be entitled, under the laws of this State, to continue to transact the banking business and shall proceed respecting the same in the manner provided by law with respect to insolvent banks, unless such State bank shall go into voluntary liquidation.

Sec. 5. Section 2 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature is hereby amended so as to hereafter read as follows:

"Sec. 2. The articles of association shall set out:

"(1) The corporate name of the proposed corporation, which shall not be the name of any corporation heretofore incorporated in this State for similar purposes, or any imitation of such name, and which shall include as a part thereof either the word 'bank' or 'banking.'

"(3) The amount of the capital stock of the corporation, which shall be divided into shares of \$100 each; that the same has been bona fide subscribed and actually paid up in lawful money of the United States, and is in the custody of the persons named as the first board of directors or managers.

"(4) The name and place of residence of the several shareholders, and the number of shares subscribed by each.

"(5) The number of directors or managers, and the names of those agreed upon for the first year.

"(6) The number of years the corporation is to continue, which in no case shall exceed fifty years."

Such articles shall be signed and acknowledged by the parties thereto, shall be filed in the office of the Commissioner of Insurance and Banking, and when so filed shall be immediately submitted to the Attorney General for his approval, and if found by him to be in accordance with the law, he shall so certify and return the same to the Commissioner of Insurance and Banking, who shall record the same in a book to be kept for that purpose, and shall make a certified copy thereof under his hand

and seal, and shall immediately deliver such certified copy to a State Bank Examiner, by whom he shall cause to be made an examination for the purpose of ascertaining whether the requisite capital stock of such corporation has been fully paid up as required by the Constitution and laws of this State. No certificate of incorporation under this act shall be valid unless at the time the articles of association were signed and acknowledged the capital stock therein prescribed shall have been bona fide subscribed and paid up in lawful money of the United States. If, upon such examination, it shall be found that the Constitution and laws have been fully complied with, the person making such examination shall deliver to the president or cashier of said corporation the certified copy of its articles of incorporation, and shall take therefor the receipt of such corporation and of the person to whom the same shall be delivered. Upon the delivery of such certified copy and the execution of the receipt therefor and upon the filing for record of such certified copy in the office of the county clerk of the county in which the corporation is to be located, the same shall become valid and effective as to the charter of said corporation, which shall thereupon be allowed to open its doors and engage in business as a State bank. It shall be the duty of the examiner to immediately make a report of such examination under his oath of office to the State Banking Board, whose duty it shall be to forthwith consider and act upon the same, and to determine therefrom and from such additional facts as may be submitted for its consideration, or as it may ascertain from other investigation, whether such corporation is solvent and its capital stock unimpaired, and whether its officers and directors are of good moral character, competent and possess the necessary qualifications for properly discharging the duties incumbent upon them as such officers or directors, and whether it is entitled under the laws of this State to transact a banking business.

If the State Banking Board shall have approved the chartering of such bank, upon receipt of its certificate, the Commissioner shall issue to such corporation the certificate of authority above provided for. In case the State Banking Board shall disapprove the report of the examiner, and refuse to certify that such corporation is entitled to a certificate of authority, it shall be the duty of the Commissioner to immediately

close the office of such corporation, unless it shall go into voluntary liquidation, and to proceed in the manner provided by law with respect to insolvent banks. All amendments to the charters of all banking corporations heretofore or hereafter formed shall be filed in the office of the Commissioner of Insurance and Banking and approved by the Attorney General and recorded by said Commissioner, when so approved, in the same manner as original charters.

Sec. 6. Section 10 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature is hereby amended so as to hereafter read as follows:

"Sec. 10. The articles of agreement shall be signed and acknowledged by the parties thereto and recorded in the office of the Commissioner of Insurance and Banking, who shall submit the same to the Attorney General for his approval, and if found by him to be in accordance with the law, he shall so certify and return the same to said Commissioner, who shall record the same in a book to be kept for that purpose and make a certified copy thereof under his hand and seal, and thereafter the same steps shall be taken and the same course pursued as is provided by law with respect to the incorporation of banks of deposit or discount, or both of deposit and discount."

Sec. 7. Section 5 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature of the State of Texas is hereby amended so as hereafter to read as follows:

"Sec. 5. That hereafter the capital stock of all banking corporations, which shall be fully paid up, shall not be less than \$10,000, if the business is to be transacted in towns or cities having less than 750 inhabitants, nor less than \$25,000 if the business is to be transacted in towns or cities having 750 or more and less than 3000 inhabitants; nor less than \$50,000, if the business is to be transacted in towns or cities having 3000 or more and less than 6000 inhabitants; nor less than \$100,000 if the business is to be transacted in towns or cities having 6000 inhabitants or more. Provided, that a banking corporation may be formed with a capital, with not less than \$50,000, having power to transact business in any city or town at a point, designated in its charter, not less than one mile removed from the place of business, at the time such corporation is formed, of any banking corpora-

tion organized under the laws of Texas or those of the United States. The population of all towns and cities for the purpose of fixing the minimum capital stock of banks under this act shall be ascertained by the Commissioner of Insurance and Banking from such affidavits as may be submitted to him or such proof as he may obtain upon investigation."

Sec. 8. All State banks transacting business in this State shall be required, on and after the first day of January, 1910, to hold a certificate of authority to transact a banking business, issued by the Commissioner, in compliance with the provisions of this act, and to keep the same conspicuously posted at all times in the banking house where such business is transacted. Any person or persons who shall, in any capacity, transact, or hold themselves out as transacting the business of banking for or on behalf of any State bank or banking or trust company, after the first day of January, 1910, without such bank or banking and trust company shall hold a certificate of authority as herein provided for, except in cases where such certificates shall not yet have been issued to newly incorporated banks, as herein provided for, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense, each day being considered a separate offense, by a fine of not less than \$500 and not exceeding \$1000, or by imprisonment in the county jail for not less than one nor more than twelve months, or by both such fine and imprisonment.

Sec. 9. The Commissioner shall, during the month of November, 1909, and of each calendar year thereafter, require the cashier of each State bank, which has been so organized and doing business for one year prior to November 1 of each such calendar year, to file with him a sworn statement of the average daily deposits of such bank for said year ending November 1; and he shall require the cashiers of all other State banks to each file with him, during said month of November, a sworn statement of the total amount of the capital, surplus and undivided profits of their respective banks, as of said first day of November. Immediately after the first day of December, 1909, the State Banking Board shall, for the purpose of creating a State bank guaranty fund, levy against each State bank, which it shall have approved as being entitled to con-

tinue in the banking business, an assessment of one per cent of its average daily deposits for the year ending on the first day of November, 1909, if it shall have transacted business for one year prior to said date, or an assessment of 3 per cent of its total capital, surplus and undivided profits as of the first day of November, 1909, if it shall not have transacted business for one year prior to that date; provided, that if said assessment shall not in the aggregate provide a fund of at least five hundred thousand (\$500,000) dollars, then the same shall be proportionately increased to such percentage of the average daily deposits and of the capital, surplus and undivided profits, respectively, as will provide a fund of that amount. Immediately after the first day of December of each year after 1909, the State Banking Board shall reley and readjust the assessment above provided for in the same manner except that they shall each succeeding year increase the percentage of the assessment upon the average daily deposits of the banks to which such assessment is applicable by one-fourth of one per cent, and they shall increase the percentage of assessment upon the capital, surplus and undivided profits of banks to which such assessment is applicable by three-fourths of one per cent until such time as the total amount of said State bank guaranty fund shall equal five per cent of the average daily deposits of all of the State banks which have been in business for as much as one year added to fifteen per cent of the capital, surplus and undivided profits of all other State banks. Each State bank shall pay such assessments by crediting the State bank guaranty fund with the amount thereof upon its books as of date January 1, next, after the said assessment is made, as a demand deposit, subject to check, upon the order of the State Banking Board, and shall, prior to said date, forward to the Commissioner proper evidence of such credit, and each State bank shall charge the amount of each such assessment so credited to the State bank guaranty fund upon its books to "interest in State bank guaranty fund," and shall be entitled to treat in its statements of condition and otherwise the amount of its said interest in said fund, as shown by its books as a portion of its assets; provided, that the amount of its said interest in said fund shall not include any of the amounts paid out upon general checks

drawn by order of the State Banking Board. The reley and readjustment of the assessment herein provided for shall be made on such a basis as will provide a State bank guaranty fund as of January 1 of each succeeding year equal to the percentages herein prescribed of the average annual deposits and capital, surplus and undivided profits, respectively, for each succeeding year until the maximum percentage herein prescribed shall be attained and thereafter such reley and readjustment shall be made each year upon such a basis as will provide a fund upon January 1 of each year amounting to five per cent of the annual deposits and fifteen per cent of the capital, surplus and undivided profits as hereinabove provided for.

If, in the making of such reley and readjustment, it becomes necessary to reduce the amount of the assessment of any State bank, said Board shall order a check to be signed by the Commissioner and countersigned by some other members of said Board, designated for that purpose, drawn upon said State bank in favor of itself, dated January 1 next thereafter, for the amount of such reduction, which the Commissioner shall forthwith transmit to such State bank, and if it shall be necessary to increase the assessment of any State bank, it shall direct the Commissioner to notify such State bank of the amount of such increase, and require that it credit the State bank guaranty fund with the amount of such increase, as of date of the first day of January thereafter, and send to the Commissioner proper evidence of such credit, prior to said date. Any State bank incorporated after the first day of January, 1910, shall, before it shall be issued a certificate of authority to transact a banking business, credit the State guaranty fund upon its books, as hereinbefore provided, with an amount equal to three per cent of its capital stock and paid in surplus, if any, and furnish the Commissioner with proper evidence of such credit. Whenever the amount deposited to the credit of the State bank guaranty fund on the books of the various State banks shall at any time be reduced by the payment of checks drawn upon them by order of the State Banking Board, for the purpose of paying the guaranteed deposits of any State bank, as hereinafter provided for, below the amount of such credit as of the first day of January next preceding, it shall be the duty of the State Banking Board to immediately

levy an assessment based upon the average daily deposits, and upon the capital, surplus and undivided profits, as shown by the sworn statements filed in the preceding November, as herein provided, sufficient to make good such reduction; provided, that the total assessments made for the purpose of making good such reduction shall not exceed two per cent of such average daily deposits for any one calendar year exclusive of the one-fourth of one per cent required to be placed to the credit of the bank guaranty fund each year as heretofore stated, and the various banks shall immediately furnish the Commissioner proper evidence of such additional credit; but this provision shall not apply to special checks drawn only on certain banks by order of said Board, as hereinbefore provided.

It shall be the duty of the Commissioner to keep a strict account with each State bank in which any portion of the State bank guaranty fund is deposited in a book to be kept for that purpose, showing all amounts credited to said fund, in each bank, and all checks drawn against the same, and it shall be his duty to immediately notify any such bank of any discrepancy between the status of its account as shown upon his books and any statement made by such bank or any report of its examination, and he shall also call such discrepancy to the attention of the State Banking Board.

Whenever any State bank shall pay off and discharge all its liabilities to its creditors and go into liquidation for the purpose of voluntarily winding up its affairs and surrender to the Commissioner its certificate of authority, it shall be the duty of the State Banking Board upon a showing of these facts to order the Commissioner to draw a check upon such State bank in its favor for the amount of the State bank guaranty fund on deposit therewith, which shall be thereby repaid to it upon such liquidation, provided nothing in this act shall be construed so as to guarantee interest-bearing deposits in such bank.

Sec. 10. Whenever the Commissioner shall have reason to believe that the capital stock of any State bank is reduced by impairment or otherwise below the amount required by law or by its certificates of authority or articles of incorporation, he shall present the matter to the State Banking Board for its consideration, and if said Board shall determine thereupon that the capital

stock of such State bank is impaired to the extent of not more than twenty-five per cent thereof, the Commissioner shall require such State bank to make good the deficiency within sixty days after the date of such requisition. If said Board shall determine that the impairment exceeds 25 per cent of the amount of the capital stock, the Commissioner shall require that such State bank forthwith reduce the amount of such impairment to less than 25 per cent and to make good the whole impairment within sixty days from the date of such requisition. The Commissioner may examine or cause to be examined any such State bank to ascertain the amount of such impairment and whether the deficiency has been made good, as required by him. The directors of every such State bank upon which such requisition shall have been made shall give notice of such requisition to each stockholder of the corporation and of the amount of the assessment which he must pay for the purpose of making good such deficiency by a written or printed notice mailed to such stockholder at his place of residence or served personally upon him, and a meeting of the stockholders of such bank shall forthwith be called for the purpose of determining whether or not such bank shall make good such deficiency or impairment or liquidate; and if it be decided to make good such deficiency or impairment, each stockholder shall thereupon become liable for, and shall pay his pro rata part of said assessment, and if any stockholder shall refuse or neglect to pay the assessment specified in such notice within the time provided by the requisition of the Commissioner, the directors shall have the right to sell to the highest bidder at public auction the stock of such stockholder, after giving previous notice of such sale for two weeks in a newspaper of general circulation published in the county where the principal office of such corporation is located; or such stock may be sold at private sale and without such published notice; provided, however, that before making private sale thereof an offer in writing to purchase such stock shall be obtained and a copy thereof served upon the owner of record of the stock caused to be sold either personally or by mailing a copy of such offer to such owner at his place of residence or address furnished by him to such State bank; and if after service of such offer such owner shall still refuse or neglect to pay such assessment

within two weeks from the time of service of such offer, the said directors may accept such offer and sell such stock to the person or persons making such offer, or to any other person or persons making larger offer than the amount named in the offer submitted to such stockholder; but such stock shall in no event be sold for a smaller sum than the valuation put on it by the Commissioner in his determination and certificate, which valuation shall not be less than the amount of the assessment called for and the necessary costs of sale. Out of the avails of the stock sold the directors shall pay the necessary cost of sale and the amount of the assessment called for thereon. The balance, if any, shall be paid to the person or persons whose stock has been thus sold. The sale of stock as herein provided shall effect the cancellation of the outstanding certificate or certificates evidencing the stock so sold, and shall make the same null and void, and a new certificate or new certificates shall be issued to the purchaser or purchasers of said stock. If it shall appear to the Commissioner that any State bank has violated its charter or any law binding upon it, he may, by an order under his hand and official seal, addressed to such State bank, direct the discontinuance of such violation; or, if it shall appear to the Commissioner that any such State bank is conducting its business in an unsafe or unauthorized manner, he may in like manner direct the discontinuance of such unsafe or unauthorized practices. Such order shall require such State bank to show cause before the State Banking Board at a time and place to be fixed by the Commissioner, why said order should not be observed.

Sec. 11. If the capital stock of any State bank shall be impaired and such impairment is not made good as required by law, or if any such State bank shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be examined upon oath touching the concerns of such State bank, or if it shall violate its charter, or any law of the State, or if such State bank shall suspend payment of its obligations, or if such State bank shall conduct its business in an unsafe or unauthorized manner, or if from any examiner's or other report provided for by law the Commissioner shall conclude that such State bank is in an unsafe or unsound condition to transact the

business for which it is organized, or that it is unsafe and inexpedient for it to continue business, and the Commissioner shall communicate the facts to the Attorney General, an action to procure a judgment dissolving such corporation and forfeiting its charter may be maintained.

Sec. 12. Whenever it shall appear to the Commissioner that any State bank has violated its charter or any law of the State, or is conducting its business in an unsafe or unauthorized manner, or if any such State bank shall refuse to submit its books, papers, and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be examined upon oath touching the concern of any such State bank, or to answer under oath any interrogatories touching such concern, sent him by the Commissioner through the mails with the requests for such answer, within ten days after the same shall have been mailed to him at his address by registered letter, or if any such State bank shall suspend payment of its obligations, or if from any examination or report provided for or authorized by law, the Commissioner shall have reason to conclude that such State bank is in an unsound or unsafe condition to transact the business for which it is organized, or that it is unsafe or inexpedient for it to continue business, or if any such State bank shall neglect or refuse to observe an order or requisition of the Commissioner to reduce or make good the impairment in its capital stock, as required by law, the Commissioner may forthwith take possession of the property and business of such State bank and retain such possession until such State bank shall resume business, or its affairs are finally liquidated, as herein provided. On taking possession of the property and business of any such State bank, the Commissioner shall forthwith give notice of such fact to any and all banks, trust companies, associations and individuals holding or in possession of any assets of any such State bank.

No bank, trust company, association or individual knowing of such taking possession by the Commissioner, or notified as aforesaid, shall have a lien or charge for any payment, advance or clearance thereafter made, or liability thereafter incurred against any of the assets of the State bank of whose property and business the Commissioner shall have taken possession as aforesaid. Such State bank may, with the con-

sent of the State Banking Board, resume business upon such condition as may be approved by it, which permission shall be evidenced by a written statement to that effect from the Commissioner. Upon taking possession of the property and business of such State bank, the Commissioner is authorized to collect moneys due to such corporation, and do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof as hereinafter provided. The Commissioner shall collect all debts due and claims belonging to such State bank, and upon the order of the district court, if in session, or the judge thereof if in vacation, of the county in which it was located and transacting business, may sell or compound all bad or doubtful debts, and on like order may sell the real or personal property of such State bank on such terms as the court shall direct; and may, if necessary to pay the debts of such State bank, enforce the individual liability of the stockholders. The Commissioner may, under his hand and official seal, appoint one or more special agents to assist him in the duty of liquidation and distribution, the certificate of appointment to be filed in the office of the Commissioner and a certified copy in the office of the clerk of the county court in which such State bank was located and transacted business. The Commissioner may, from time to time, authorize a special agent to perform such duties connected with such liquidation and distribution as the said Commissioner may deem proper. The Commissioner may employ such counsel and procure such expert assistance and advice as may be necessary in the liquidation and distribution of the assets of such State bank, and may retain such of the officers or employees of such State bank as he may deem necessary. The Commissioner shall require from a special agent and from such assistants such security for the faithful discharge of their duties as he may deem proper. The Commissioner shall cause notice to be given by advertisement in such newspapers as he may direct, weekly, for three consecutive months, calling on all persons who may have claims against such State bank to present the same to the Commissioner and make legal proof thereof at a place and within a time not earlier than the last day of publication to be therein specified, which notice shall contain a statement, in larger type than that in which the body of such notice is print-

ed, specifically stating that all such claims of guaranteed depositors must be presented and legal proof thereof made at the place designated within forty-five days after the date which the property and business of such State bank was taken possession of by the Commissioner, and that all claims of guaranteed depositors presented after the expiration of forty-five days shall not be entitled to payment of any portion thereof out of the State bank guaranty fund. The Commissioner shall mail a similar notice to all persons whose names appear as creditors upon the books of the State bank. If the Commissioner doubts the justice and validity of any claim, he may reject the same and serve notice of such rejection upon the claimant, either by mail or personally. An affidavit of the service of such notice, which shall be prima facie evidence thereof, shall be filed with the Commissioner. The action upon a claim so rejected must be brought within six months after such service. Claims presented after the expiration of the time fixed in the notice to the creditors shall be entitled to share in the distribution only to the extent of the assets in the hands of the Commissioner equitably applicable thereto. Upon taking possession of the property and assets of such State bank, the Commissioner shall make an inventory of the assets of such State bank in duplicate, one to be filed in the office of the Commissioner and one in the office of the clerk of the county court in which such State bank was located and transacting business; upon the expiration of the time fixed for the presentation of claims, the Commissioner shall make in duplicate a full and complete list of the claims presented, including and specifying such claims as have been rejected by him, and showing fully all claims and amounts paid to guaranteed depositors out of the State bank guaranty fund, and the amount to which said fund is entitled by reason of its subrogation to the rights of such guaranteed depositors so paid, and all amounts held by him on account of claims of guaranteed depositors, which have been rejected or are in dispute, one to be filed in the office of the Commissioner and one in the office of the clerk of the county court of the county in which such State bank was located and transacted business. Such inventory and list of claims shall be open at all reasonable times to inspection. All compensation of special agents, counsel and other employes

and assistants, and all expenses of supervision and liquidation shall be fixed by the Commissioner, subject to the approval of the district court, if in session, or the judge thereof, if in vacation, of the district in which such State bank was located and transacting business, on notice to such State bank; provided, that the compensation of such special agents shall always be the same as is provided by law for State Bank Examiners, and shall, upon the certificate of the Commissioner, be paid out of the fund of such State banks in the hands of the Commissioner. The moneys collected by the Commissioner shall be from time to time deposited in one or more State banks, and, in case of the suspension or insolvency of the depository, such deposits shall be preferred before all other deposits. At any time after the expiration of the date fixed for the presentation of claims, the Commissioner may, out of the funds remaining in his hands, after the payment of expenses, declare one or more dividends, and after the expiration of one year from the first publication of a notice to creditors, he may declare a final dividend, such dividends to be paid to such person and in such manner, and upon such notice as may be directed by the district court, if in session, or the judge thereof, if in vacation, of the district in which such State bank was located and transacted business. In the declaration and payment of all such dividends, the State bank guaranty fund shall be entitled to receive as its dividend such portions of the amounts due and payable to guaranteed depositors as shall have been paid to them out of the State bank guaranty fund, together with 6 per cent interest thereon from the date or dates upon which checks were drawn upon all State banks, as hereinafter provided to provide for the payment of the guaranteed deposits of such State banks, and the Commissioner shall forthwith distribute such dividends to the State banks upon which checks were drawn for such payment of guaranteed depositors in proportion to the amounts of such checks, respectively. Objections to any claim not rejected by the Commissioner may be made by any party interested by filing a copy of such objections with the Commissioner, who shall present the same to the district court, if in session, or the judge thereof, if in vacation, at the time of the next application to declare a dividend. The court may make proper provision for unproved or unclaimed deposits. When-

ever any such State bank, of whose property and business the Commissioner has taken possession as aforesaid, deems itself aggrieved thereby, it may, at any time within ten days after such taking possession, apply to the district court, if in session, or the judge thereof, if in vacation, of the district in which such bank is located and transacting business to enjoin further proceedings, and said court, if in session, or the judge thereof, if in vacation, after citing the Commissioner to show cause why further proceedings should not be enjoined, and hearing the allegations and proofs of the parties and determining the facts, may, upon the merits dismiss such application or enjoin the Commissioner from further proceedings and direct him to surrender such business and property to such State bank. Whenever the Commissioner shall have paid to each and every depositor and creditor of such State bank (not including stockholders), except for the amount of their deposits over and above their liability under the law as stockholders, whose claim or claims as such creditors or depositor shall have been duly proven and allowed, the full amount of such claims, and shall have repaid to the State bank guaranty fund all amounts paid out of it to guaranteed depositors of such State bank, together with 6 per cent interest thereon from the date when the checks to provide for such payment were drawn and shall have made proper provision for unclaimed and unpaid deposits or dividends, and shall have paid all the expenses of the liquidation, the Commissioner shall call a meeting of the stockholders of such State bank by giving notice thereof for thirty days in one or more newspapers in the county where such State bank was located and transacted business. At such meeting the stockholders shall determine whether the Commissioner shall be continued as liquidator, and shall wind up the affairs of such State bank, or whether an agent or agents shall be elected for that purpose, and in so determining, the said stockholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and a majority of the stock shall be necessary to a determination. In case it is determined to continue the liquidation under the Commissioner, he shall complete the liquidation of such corporation, and after paying the expenses thereof shall distribute the proceeds among the stockholders in proportion to the several holdings of stock in such manner, and upon

such notice as may be directed by the district court. In case it is determined to appoint an agent or agents to liquidate, the stockholders shall thereupon select such agent or agents by ballot, a majority of the stock present and voting, in person or by proxy, being necessary for a choice. Such agent or agents shall execute and file with the Commissioner a bond, in such amount, with such sureties and in such form as shall be approved by the Commissioner, conditioned for the faithful performance of all the duties of his, or their trust, and thereupon the Commissioner shall transfer and deliver to such agent, or agents, all the undivided and unclaimed or other assets of such State bank then remaining in his hands; and upon such transfer and delivery the said Commissioner shall be discharged from any and all further liability to such State bank and its creditors and stockholders. Such agent, or agents, shall convert the assets coming into his or their possession into cash, and shall account for and make distribution of the property of said State bank, as is herein provided in the case of distribution by the Commissioner, except that the expenses thereof shall be subject to the direction and control of the district court, if in session, or the judge thereof, if in vacation, of the district in which such State bank was located and transacted business. In case of the death, removal or refusal to act of such agent or agents, the stockholders, on the same notice, to be given by the Commissioner, upon proof of such death, removal or refusal to act being filed with him, and by the same vote hereinbefore provided, may select a successor, and shall have the same power and be subject to the same liabilities and duties as the agent originally elected. Dividends and unclaimed deposits remaining unpaid in the hands of the Commissioner for six months after the order for final distribution, shall be by him deposited in some State bank to be designated by the State Banking Board to the credit of the Commissioner in his name of office, in trust, for the several depositors with, and creditors of, the liquidated State bank from which they were received, who are entitled thereto. The Commissioner shall show in his official report the names of the State banks so taken possession of and liquidated, and the amounts of unclaimed and unpaid deposits or dividends, with respect to each of them respectively. The Commissioner shall pay over the moneys so held by him to the per-

sons respectively entitled thereto, upon the order of the State Banking Board, who shall direct such payment to such persons upon being furnished satisfactory evidence of their right to the same. In cases of doubt or conflicting claims, the State Banking Board may require an order of the district court, if in session, or the judge thereof, if in vacation, authorizing and directing the payment thereof. The State Banking Board may apply the interest earned by the moneys held by the Commissioner, or may authorize him to apply the same toward defraying the expenses incurred in the payment and distribution of such unclaimed deposits or dividends to the depositors and creditors entitled to receive the same, and the Commissioner shall include in his official report a statement of the amount of interest earned by such unclaimed dividends. Any State bank may, at any time, place its affairs and assets under the control of the Commissioner by posting a notice on its front door, as follows: "This institution is in the hands of the Commissioner of Insurance and Banking of the State of Texas." The posting of this notice or of the same notice by the Commissioner or any State bank examiner at any time when he shall have taken possession of the property and business of a State bank, shall be sufficient to place all its assets and property of whatever nature in the possession of the Commissioner and shall operate as a bar to any attachment proceedings whatever.

Sec. 13. Section 40 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature is hereby repealed.

Sec. 14. Whenever any State bank shall voluntarily place itself in the hands of the Commissioner, or whenever the Commissioner shall take possession of the property and business of any State bank, in addition to the other duties required of him by law, he shall immediately cause to be made a thorough and complete examination of the affairs of such State bank by a State bank examiner, and shall require a report of such examination to be made to him by the examiner making the same, under his oath of office, which shall be without delay submitted to the State Banking Board for its consideration. Such report shall show the amount of the liabilities of such State bank to guaranteed depositors as defined by this act, so shown by its books, and also the

amount of any such liabilities of which the examiner may have received information not shown by such books and all its other liabilities, and also its total cash and other resources and the probable amount that can be realized out of the collection of its debts and the probable time within which the same may be realized, the responsibility of its stockholders, and such other facts as the Commissioner or the State Banking Board may direct. When the State Banking Board shall have considered such report it shall either make an order directing that the entire amount of the guaranteed deposits as herein defined of such State bank be paid by the Commissioner, personally, or through his special agent, in cash, upon satisfactory proof of the indebtedness due to each of such guaranteed depositors being made, or it may make an order directing that the Commissioner, either personally or through his special agent, shall issue to such guaranteed depositors, upon satisfactory proof being made of the amount due him by said State bank as a guaranteed deposit, a certificate (or certificate as hereinafter provided) certifying that the holder is a guaranteed depositor in such State bank, and as such is entitled to be paid out of the State bank guaranty fund, the amount stated in such certificate and that the said amount is due and will be paid over to the owner or holder of such certificate, together with 6 per cent interest thereon, sixty days after the date of the closing of such State bank by the Commissioner, out of said State bank guaranty fund (provided that if prior to the expiration of such period of sixty days said State bank shall be lawfully permitted to resume business, then and in that event such certificate shall be payable and redeemable in cash upon presentation to said State bank by it instead of by the Commissioner out of said State bank guaranty fund). Such certificates shall be in form prescribed and approved by the State Banking Board, and shall be signed or countersigned by the Commissioner or such other member of said Board, as it shall direct, and shall be so devised and designated as to guard against alteration or misuse. Such certificates may, at the option of the guaranteed depositor entitled to receive the same, be issued in such reasonable denominations as he may desire; provided, that the total amount of such certificates so issued to each guaranteed de-

positor shall equal the amount due him as a guaranteed depositor. The amount which shall be paid to any guaranteed depositor in any State bank on account of his guaranteed deposit, a portion or all of which shall be payable out of the State bank guaranty fund, shall be the net amount derived by deducting from the total amount of the liability of said State bank to him, as a guaranteed depositor, the amount of his direct and indirect indebtedness and liability due or to become due, if any, to said State bank.

Sec. 15. Should the State bank guaranty fund become depleted, then the State Banking Board, upon the approved claims of all guaranteed depositors, shall issue certificates, which, at the option of the depositor entitled to receive the same, may be issued in such reasonable denominations as he may desire, provided that the total of such certificates shall equal the total amount due such guaranteed depositor, which certificates shall be numbered consecutively, and shall bear interest at the rate of 6 per cent per annum, and shall be payable, principal and interest, out of the State bank guaranty fund upon call of the State Banking Board, as soon as a sufficient amount shall have been accumulated under the terms and provisions of this act. The Commissioner shall keep a record of the issuance and number of such certificates, and the payment of the same shall be in accordance with the numbers of such certificates, as shown by the record in the office of the Commissioner.

Sec. 16. When any State bank shall voluntarily place itself in the hands of the Commissioner, or when he shall take possession of the property and business of any State bank, he shall immediately after the State Banking Board shall have passed upon the examiner's report and determined and directed how the guaranteed depositors shall be paid, cause a written notice to be sent to each and every guaranteed depositor, as shown by the books of said State bank, informing him that his claim as a guaranteed depositor against said State bank must be presented and proved up for payment, not later than forty-five days after the date upon which the Commissioner took possession of said State bank, which notice shall advise such guaranteed depositor whether his claim is to be paid in cash or in certificates as herein provided, and shall inform him that unless his claim be

proven up within forty-five days after the date upon which the Commissioner took possession of said bank, the same will not be payable in any event out of the State bank guaranty fund.

Sec. 17. If the State Banking Board shall make an order directing that the guaranteed depositors in a closed State bank shall be paid in cash, it shall immediately order the Commissioner to draw checks, countersigned by some other member of said board designated for that purpose, which shall be known and marked as "special checks," on such of the State banks and for such portions of the amount of the State bank guaranty fund on deposit therewith, respectively, as it may determine and direct, for amounts sufficient in the aggregate to pay in full the amount due to the guaranteed depositors of said State banks. The State Banking Board shall have the right to order other additional special checks drawn as above provided in case they shall find that the amount originally estimated will prove insufficient to pay all guaranteed depositors. Such special checks shall be made payable to the order of some State bank, and shall be deposited by the Commissioner in such bank as a special deposit for the purpose of paying the guaranteed depositors in the State bank of which he shall take possession, and shall be subject to his check for that use and purpose. The Commissioner may, if so directed by the State Banking Board, draw the sums so deposited in cash upon checks made payable to himself for the purpose of paying in cash the guaranteed depositors of said closed State bank. With the fund so provided, the Commissioner shall immediately proceed, either personally or through his special agents, to pay all claims of guaranteed depositors as they may be presented and proven up, taking receipts therefor in such form as may be prescribed by the State Banking Board. At the expiration of forty-five days after the Commissioner shall have taken possession of the property and business of any State bank whose guaranteed depositors he shall have paid in cash, he shall make report to the State Banking Board of the total amount of guaranteed deposits of such institution, and of the amount of such guaranteed deposits made by him, and to whom paid and of the amount of claims presented by guaranteed depositors which he has rejected and disallowed, and of any amount of cash he has on hand on ac-

count of such claims, and of any amount which he may have paid or contracted to pay out of said State bank guaranty fund in connection with the expenses incident to the payment of such guaranteed deposits, and of the amount remaining in his hands or on special deposit in his name out of the funds provided by special checks for the payment of the guaranteed depositors of such State bank, and of the amount of money in his hands belonging to said closed State bank which may be properly paid into the State bank guaranty fund on account of the guaranteed deposits paid out of such fund. Such report shall be accompanied by proper vouchers for all expenditures so made by the Commissioner, or his special agent. The State Banking Board shall thereupon consider such report, and carefully audit the same in connection with the vouchers submitted therewith, and if it approve the same it shall order the Commissioner to draw checks, countersigned by some other member of said board designated for that purpose, upon all State banks other than those upon whom such special checks were drawn for their respective proportionate amounts of such sum as may be necessary in addition to such amount as may remain unexpended in the hands of the Commissioner out of proceeds of such special checks, and such amount belonging to said closed bank as may be in his hands, which is due and payable, as aforesaid, to the State bank guaranty fund, to repay the amounts drawn by such special checks. Each of the checks so drawn shall be for that proportion of such sum which the amount of the State bank guaranty fund on deposit in each such State bank bears to the total amount of said State bank guaranty fund, and such checks shall be payable to the order of some State bank in which there shall be deposited by the Commissioner to his credit as a special deposit, and against such special deposit shall immediately draw his check in favor of each of the State banks upon whom the special checks were drawn for the difference between the amount of such special checks drawn upon each bank and its proportionate amount of the cash raised upon all of such special checks so drawn, and he shall immediately transmit the same to such State banks upon whom such special checks were drawn in repayment of the amount advanced by them over and above the amount proportionately due by them.

Sec. 18. If the State Banking Board shall direct that the guaranteed depositors of any State bank of the business and property of which the Commissioner shall take possession shall be paid in certificates, as provided in this act, the Commissioner, personally, or through his special agent, shall issue certificates as provided herein to each guaranteed depositor as his claim may be presented and proved up, and at the expiration of forty-five days after he shall have taken possession of such State bank, he shall report to the State Banking Board the total amount of the guaranteed deposits of such State bank, claims for which have been proven up and allowed and paid in such certificates and of the amount of cash in his hands belonging to said State bank, which is due and payable to the State bank guaranty fund, or can properly be applied to the redemption of such certificates so issued. It shall be the duty of the State Banking Board to consider said report, and to determine therefrom the amount necessary to draw from the State bank guaranty fund to redeem the certificates issued and pay the interest accrued thereon, and to pay the expenses of handling and administering the affairs of said State bank properly payable out of said fund, and to direct the Commissioner to draw checks, countersigned by some other member of said Board designated for that purpose upon each State bank for the proportion of said amount which the amount of the State bank guaranty fund on deposit in such State bank bears to the total amount of said State bank guaranty fund. Such checks shall be payable to the order of some State bank and shall be deposited, together with the funds in the hands of the Commissioner belonging to such closed State bank, due and payable to the State bank guaranty fund, in some State bank, to his credit as a special deposit for the purpose of redeeming such certificates; and the Commissioner shall immediately, upon the expiration of sixty days after the date upon which he took charge of said bank, or if the State bank guaranty fund is depleted, upon call of the State Banking Board, pay the certificates theretofore issued by him or his special agent, as the same shall be presented for payment, together with interest thereon at the rate of 6 cent per annum for said time, in checks drawn against such special deposit, or at the option of the holder in cash. If any State bank of the business and property of which the Commissioner

shall have taken charge shall thereafter resume business by order of the State Banking Board, within less than sixty days after the date upon which the Commissioner so took charge, in that event any certificates that may have been issued by the Commissioner in payment of its guaranteed depositors shall be redeemed upon the reopening of said State bank by it in cash upon their presentation. The Commissioner, within ninety days after he shall have taken possession of such bank, shall make a full report to the State Banking Board, showing the amounts collected and disbursed by him in the payment of guaranteed depositors, accompanied by proper vouchers for all disbursements, and showing all amounts remaining in his hands and on what account the same is held, which report shall be carefully audited by the State Banking Board, in connection with the vouchers submitted therewith. A copy of such report shall be recorded in the office of the Commissioner, and a certified copy shall be recorded in the office of the county clerk of the county where such State bank was located and transacted business, and a printed copy shall be mailed by the Commissioner to each State bank in the State.

Sec. 19. If the Commissioner, or his special agent, shall disallow or reject any claim presented by a guaranteed depositor, he shall nevertheless include the amount of such disallowed or rejected claim in the amount for the payment of which provision is to be made out of the State bank guaranty fund, and like provisions shall be made for such claim as for those duly allowed and paid; but the Commissioner shall retain in his hands such an amount pending the final settlement and an adjudication of such rejected or disputed claim, and shall apply the same in payment thereof, if it shall be found that such State bank was legally liable therefor, and shall equitably distribute the same to the various banks in which the State bank guaranty fund is deposited if it shall be finally determined that such State bank is not so liable.

Sec. 20. Any deposit made by the Commissioner, as provided by this act, in any State bank, for the purpose of providing for the payment of guaranteed depositors, whether of special checks or checks drawn upon all banks in which the State bank guaranty fund may be deposited or otherwise, and all deposits of any portion of the State bank guaranty fund originally credited thereto in

any State bank, as provided by this act, shall be preferred before all other deposits in case of the insolvency or suspension of the depository.

Sec. 21. If from the sworn statement of the average daily deposits of any bank for the year ending on the first day of November, 1909, or of any subsequent year, filed with the Commissioner as provided for in Section 7 of this act, it shall appear that such average daily deposits for such year amounted to more than five times the capital stock and surplus of such bank on November 1 of such year, if the capital stock of such bank is not more than \$10,000, or more than six times such capital stock and surplus if the capital is more than \$10,000 and less than \$20,000, or seven times such capital stock and surplus if the capital stock is \$20,000 or more and less than \$40,000, or eight times such capital stock and surplus if the capital stock is \$40,000 or more and less than \$75,000, or nine times such capital stock and surplus if the capital stock is \$75,000 or more and less than \$100,000, or ten times such capital stock and surplus if such capital stock is \$100,000 or more, then in any such case it shall be the duty of the State Banking Board to require that such State bank shall within sixty days thereafter increase its capital by 25 per cent thereof, and it shall be the duty of the Commissioner to immediately furnish such State bank with a certified copy of the order making such requirement; and upon the receipt of such requisition the directors of such State bank shall, within the time required, cause such increase to be made in its capital stock, and if the same is not done within such time, it shall be unlawful for such bank to thereafter receive any deposits at any time when its total demand and time deposits shall in the aggregate amount to more than the limitation herein placed upon deposits.

Sec. 22. Section 39 of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas is hereby amended so as to hereafter read as follows:

"Sec. 39. It shall be the duty of the Commissioner of Insurance and Banking at least once in each quarter of each calendar year to cause each banking corporation, subject by law to examination, to be thoroughly and fully examined, and any such corporation may be examined whenever such Commissioner may deem it necessary or expedient. Such Commissioner and all

State Bank Examiners shall have the power to administer oaths to any person whose testimony may be desired for the purpose of any such examinations. The expenses of every general and special examination shall be paid by the corporation examined in such amount as the Commissioner of Insurance and Banking shall certify to be just and reasonable. Provided such expenses shall be paid in proportion to the amount of capital stock of the various corporations as follows: Those with a capital stock of \$10,000 shall not pay more than \$12.50; those with a capital stock of more than \$10,000 and not exceeding \$25,000 shall not pay more than \$15; those with a capital stock of more than \$25,000 and not exceeding \$50,000 shall not pay more than \$20; those with a capital stock of more than \$50,000 and not exceeding \$100,000 shall not pay more than \$30; those with a capital stock of more than \$100,000 and not exceeding \$250,000 shall not pay more than \$37.50; those with a capital stock of more than \$250,000 and not exceeding \$500,000 shall not pay more than \$75; those with a capital stock of more than \$500,000 and not exceeding \$1,000,000 shall not pay more than \$125; those with a capital stock of more than \$1,000,000 and not exceeding \$2,000,000 shall not pay more than \$150; those with a capital stock of more than \$2,000,000 and not exceeding \$4,000,000 shall not pay more than \$200; and those with a capital stock exceeding \$4,000,000 shall not pay more than \$300.

"The permanent surplus of any such corporation shall be reckoned in ascertaining the fees for examination as a part of its capital stock. All sums collected as examination fees shall be paid by the Commissioner of Insurance and Banking directly into the State Treasury, to the credit of the general revenue fund. Payments for salaries and expenses of examinations and for expenses of the Commissioner of Insurance and Banking in enforcing this act shall be made upon the certificate of the Commissioner of Insurance and Banking by warrant on the Comptroller upon the State Treasurer.

"The result of each examination shall be certified by the examiner upon the record of the corporation examined, and the report of all examinations made during each year shall be embodied in an annual report pertaining to banking matters, to be made by the Commissioner of Insurance and Banking to

the Governor. The result of all such examinations shall be reported semi-annually to the Comptroller."

Sec. 23. Section 44 of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas is hereby amended so as hereafter to read as follows:

"Section 44. The Commissioner of Insurance and Banking shall from time to time appoint such number of State bank examiners as may be necessary to make the examinations of banking corporations required by law, which number shall at no time exceed one for each forty banking corporations then subject to examination under the laws of this State. As full compensation for the performance of the duties of examiners, each person so appointed shall be entitled to receive a salary of \$2000 per annum, besides necessary traveling expenses. An itemized account of such expenses shall be rendered monthly, under oath, by each examiner and shall be approved by the Commissioner."

Sec. 24. No State bank shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent a loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale, or, in default thereof, such State bank shall be considered to have its capital stock impaired to the extent of the par value of such shares.

Sec. 25. No State bank shall, at any time, be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time, actually paid in and remaining undiminished by losses, or otherwise, except on account of demands of the nature following:

(1) Money deposited with, or collected by such State bank.

(2) Bills of exchange or drafts drawn against money actually on deposit to the credit of such State bank, or due thereto.

(3) Liabilities to the stockholders of such State bank on account of the stock held by them and for dividends and undivided profits.

Sec. 26. It shall be unlawful for any such bank to hypothecate or pledge as collateral security for money borrowed upon bills payable or certificates

of deposit, or otherwise, its securities to an amount more than 50 per cent greater than the amount borrowed thereon, or for any State bank to issue or execute any bills or other evidence of indebtedness, secured or to be secured, by the pledge or hypothecation of any of its securities, which shall not contain a provision that in the event such State bank shall, for any cause, have its property and business taken possession of by the Commissioner, at any time before such pledge or hypothecation shall have been actually foreclosed, a grace of thirty days after the date of such taking possession shall be allowed, in which such bank or Commissioner shall be permitted to redeem such securities so hypothecated or pledged by the payment of the amount due as principal and interest on such indebtedness.

Sec. 27. After this act shall take effect, it shall be unlawful for any State bank to make a loan, secured by the stock of any other banking corporation, if by the making of such loan the total of stock of such other banking corporation held by it as collateral, will exceed in the aggregate 10 per cent of the capital stock of such other banking corporation, unless the taking of a greater percentage of such capital stock as collateral shall be necessary to prevent loss upon a debt previously contracted, in good faith, and any such excess so taken as collateral, or owned by such State bank, shall not be held as collateral or owned by it for a longer period than six months.

Sec. 28. After this act shall take effect, no State bank shall make a loan upon real estate security, directly or indirectly, which shall not be due and payable within three years from the date upon which such loan is made, or a loan upon other than real estate security which shall not be due and payable not more than one year from the date upon which such loan is made.

Sec. 29. Each director of a State bank, when appointed or elected, shall take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such corporation, and will not knowingly violate, or wilfully permit to be violated, any of the provisions of the law applicable to such State bank; and he is the owner in good faith, and in his own right, of the number of shares of stock required by law, subscribed by him or standing in his name on the

books of the corporation, and that the same is not hypothecated, or in any way pledged as security for any loan or debt, and, in case of re-election or re-appointment, that such stock was not hypothecated, or in any way pledged as security for any loan or debt during his previous term. Such oath shall be subscribed by the director making it, and certified by the officer before whom it is taken, and shall be immediately transmitted to the Commissioner, and filed and preserved in his office.

Sec. 30. The directors of every State bank shall hold a regular meeting once in each month, at which it shall be the duty of the cashier, or some other officer designated for that purpose by resolution of the board of directors, duly recorded in its minutes, to prepare and submit to each director a written statement of all purchases and sales of securities, and of every discount and loan, exclusive of discounts and loans of less amounts than \$1000, if the capital stock of such State bank be \$100,000 or more, and exclusive of discounts and loans of less than one per cent of its capital stock, if it be less than \$100,000, made since the last regular meeting of the board, describing the collateral to the loans so made, as of the date of the meeting at which such statement is submitted. Such statement shall also contain a list giving the aggregate of loans and discounts to each individual, firm, corporation, or association, whose liability to such bank has been increased since the last regular meeting of the board, \$1000 or more, if such State bank has a capital of \$100,000 or more, and one per cent of its capital stock, if the same be less than \$100,000, together with a description of the collateral to such loans held by such corporation at the date of the meeting at which such statement is submitted. A copy of such statement shall be immediately mailed to each director not present at such meeting, whether or not a quorum of such directors shall attend, and a copy thereof, together with a list of the directors present at such meeting and of those to whom such statements were mailed, verified by the affidavit of the officer or officers charged with the duty of preparing such statement, shall be filed with the records of such State bank, within one day after such meeting, and be presumptive evidence of the matters therein stated.

Sec. 31. It shall be lawful for any

State bank within the provisions of this act to use the following on its stationery and in its advertisements, "Non-interest bearing and unsecured deposits guaranteed by the State bank guaranty fund of the State of Texas."

Sec. 31a. Section 50 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature is hereby amended so as hereafter to read as follows:

"Sec. 50. No bank and no bank or trust company or any member of either, shall, during the time it shall continue in banking or banking and trust operations, withdraw or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. If losses have at any time been sustained by any such association equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by a bank or bank and trust company while it continues its banking or banking and trust operations to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts. All debts due to any association, on which interest is past due and unpaid for a period of six months, unless the same are well secured and in process of collection, shall be considered bad debts within the meaning of this section.

"The board of directors of any bank or trust company organized under this act may declare a semi-annual or quarterly dividend if such dividend has been earned; provided the corporation be fully solvent, without such earnings proposed to be divided. But they shall not declare a dividend at any time when the capital of such corporation shall have become impaired to such an extent that it is not worth in good resources the full amount paid in after the payment of all liabilities, and any officer or director of such corporation who shall assent to declaring and paying dividends where the capital stock is so impaired, shall be personally liable to the creditors of the corporation to the amount of his proportion of the proposed dividend, if any loss occur by reason of the payment of such dividend."

Sec. 32. Section 53 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature of the State of Texas are hereby amended so as hereafter to read as follows:

"Sec. 53. No incorporated bank, nor trust company, organized under this act

shall loan its money to any individual, corporation, or company directly or indirectly, or permit any individual, corporation, or company to become at any time indebted or liable to it in a sum exceeding 25 per cent of its capital stock, or permit a line of loans or credits to any greater amount to any individual, corporation, or company, a permanent surplus, the setting apart of which shall have been certified to the Commissioner of Insurance and Banking, may be taken and considered as a part of the capital stock for the purpose of this section, provided such surplus is in amount not less than 50 per cent of the capital stock of said bank; provided that the provisions of this section shall not be construed as in anywise to interfere with the rules and regulations of any clearing association in this State in reference to the daily balances between banks, and that this section shall not apply to balances due from correspondents subject to draft, and that the discounting of the following classes of paper shall not be included in the limitations placed upon loans and credits by this section, viz.:

"1. The discount of bills of exchange drawn in good faith against actual existing values.

"2. The discount of paper upon the collateral security of warehouse receipts, or other written instruments conveying a lien with the right to take immediate possession covering agricultural and manufactured products in store in elevators and warehouses, or conveniently deposited elsewhere under the following conditions:

"(a) That the actual market value of the property held in store and covered by such receipts, if other than cotton or cotton seed products, shall at all times exceed, by at least 25 per cent, the amount loaned upon the same, and if it be cotton or cotton seed products, it shall at least exceed 10 per centum of the amount loaned upon the same.

"(b) That the full amount of the loans shall at all times be covered by policies of fire insurance issued by companies admitted to do business in this State to the extent of their ability to cover such loans, and then by companies having sufficient paid up capital to be so admitted, and all such policies shall be made payable in case of loss to the bank or holder of such warehouse receipts, or other instruments."

Sec. 33. The Commissioner of Insur-

ance and Banking shall have the power from time to time to make such changes in the form of the statements required of each banking corporation as he may deem advisable.

Sec. 34. It shall be unlawful for any State bank or any of its officers, directors, or stockholders, or any one for such bank or for any of its officers, directors, or stockholders, to write, print, publish or advertise in any manner or by any means, or to permit any one for them, or for said bank, to so write, print, publish or advertise that the non-interest bearing and unsecured deposits of such bank are guaranteed other than by the State bank guaranty fund of the State of Texas.

Any one violating the provisions of this section of this act shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred (\$100) dollars, nor more than five hundred (\$500) dollars, or by confinement in the county jail for not less than three (3) months, nor more than twelve (12) months, or by both such fine and imprisonment.

Sec. 35. Every president, director, cashier, teller, clerk or agent of any State bank who embezzles, abstracts or wilfully misapplies any of the moneys, funds or credits of such State bank, or who, without authority from the directors, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment or decree; or who makes any false entry in any book, report or statement of such State bank, with intent in either case to defraud such State bank, or any other corporation, body politic, or any individual person, firm, or association, or to deceive any officer of such State bank, the Commissioner of Insurance and Banking, or any examiner or special agent, authorized by law to examine the affairs of any such State bank, and every person who, with like intent, aids or abets any officer, clerk or agent in any violation of this section, shall be deemed guilty of a felony and shall, upon conviction, be imprisoned in the State penitentiary for a term of not less than five years, nor more than ten years.

Sec. 36. Any director of a State bank who shall either directly or indirectly borrow any of the funds of such bank in excess of 10 per cent of its capital and surplus without the consent of a ma-

majority of the directors of the bank first having been obtained and made a matter of record at a regular meeting of the board, or without the written consent of such majority of the directors other than the borrowers being jointly executed by them and filed in the archives of such bank before the loan is made, and any officer of a State bank who shall knowingly become indebted to such bank, directly or indirectly, in any sum whatever, without the consent of a majority of the board other than the borrower, obtained or recorded, or filed in like manner, and any officer or director of any such State bank who shall knowingly loan or assent to the loaning of any of its funds to any officer, or any of its funds to any director in excess of 10 per cent of its capital and surplus without such consent being first obtained and recorded or filed, or who shall knowingly permit any such officer or director to become indebted to the bank or liable to it without such consent, shall be deemed guilty of a felony and shall be punished by imprisonment in the State penitentiary for a term of not less than two years.

Sec. 37. Any officer, director or other agent or employe of any State bank, who knowingly and wilfully does any act as such officer, director, agent, or employe, which is expressly forbidden by law, or wilfully or knowingly omits to perform any duty imposed upon him by law, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred (\$100) dollars, nor more than one thousand (\$1000) dollars, or by imprisonment in the county jail for not less than three nor more than twelve months, or by both such fine and imprisonment.

Sec. 38. Any officer or director of a State bank, who concurs in any vote or act of the directors of such State bank, or any of them, by which it is intended to make a loan or discount to any director of such State bank, or upon paper, upon which any such director is liable, or responsible to any amount exceeding the amount allowed by law; or any director, officer or employe of any State bank who makes or maintains or attempts to make or maintain a deposit of such State bank's funds with any other bank or banking corporation on condition, or with the understanding, express or implied, with the bank or banking corporation receiving such deposit,

makes a loan or advance, directly or indirectly, to any director, officer and employe of the corporation so making, or attempting to make or maintain deposit, or any officer, or employe of any State bank who intentionally conceals from its directors any discounts or loans made by it between the regular meetings of its board of directors, or the purchase of any securities or the sale of any of its securities during the same period, or knowingly fails to report to its board of directors, when required to do so by law, all discounts or loans made by it, and all securities purchased or sold by it between the regular meetings of its board of directors, or any officer, director, or employe of any State bank who shall wilfully and knowingly make any loan or discount for such State bank, at any time when the reserve of such bank required by law to be maintained by it, shall be less than 25 per cent of its demand deposits, and until it shall, by collections, restore its lawful reserve, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred, nor more than one thousand dollars, or by imprisonment in the county jail for not less than three nor more than twelve months, or by both such fine and imprisonment.

Sec. 39. Any State bank examiner, or special agent, who shall knowingly and intentionally fail or refuse to notify the Commissioner of Insurance and Banking in writing, of any violation of the criminal provision of this act or of any provision of the Penal Code of this State, within ten days after the same shall come to his notice or attention, unless such notice shall, within his knowledge, have been previously given by some other bank examiner or special agent, or any Commissioner of Insurance and Banking who shall knowingly and intentionally fail or refuse to notify in writing the county or district attorney charged by law with the duty of the prosecution thereof, of any such violation within ten days after the same shall come to his knowledge or attention, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than one hundred, nor more than five hundred dollars, or by imprisonment in the county jail not less than three nor more than twelve months, or by both such fine and imprisonment, and upon conviction shall be removed from office.

Sec. 40. Any officer, clerk or agent of any State bank, who shall wilfully certify to any check or checks, before the amount thereof shall have been regularly entered to the credit of the drawer, upon the books of such State bank, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment in the State penitentiary for not more than one year, or by both such fine and imprisonment.

Sec. 41. Any State bank, or banking and trust company, incorporated under the laws of this State, desiring to maintain a savings department or to use or continue to use the word "savings" as a part of its corporate name, or in or as a part of any sign or advertisement, or in or upon any stationery used or to be used by it, shall establish and maintain a savings department in compliance with the provisions of this section. Such savings department may be established by the board of directors adopting a resolution providing therefor, at a regular meeting, which shall contain a copy of this section, and a certified copy of which shall be filed in the office of the Commissioner of Insurance and Banking, and also recorded in the office of the county clerk of the county in which such bank or banking and trust company is located; such copies to be so filed by banks or banking and trust companies maintaining savings departments and using the word "savings" as above provided at the time this act shall take effect, and which desire to continue to do so, within ninety days from the time this act shall take effect, and to be filed by banks desiring to establish such savings departments after this act shall take effect prior to the establishment of such department. All banks or banking and trust companies establishing or maintaining a savings department or using the word "savings" as above provided after this act shall take effect, or which, having such departments or so using the word "savings" at the time this act shall take effect, shall continue to maintain such departments or to use the word "savings" more than ninety days thereafter shall keep the business of such department entirely separate and distinct from the general business of the bank or banking and trust company, and shall keep all moneys received as such savings deposits and the funds and securi-

ties in which the same may be invested, at all times segregated from and unmingled with the other money and funds of the bank or banking and trust company, and may invest not more than 85 per cent of the total amount of such savings deposits in any of the following classes of securities, and not otherwise, to-wit:

1. In bonds or interest-bearing notes or obligations of the United States or of those for which the faith of the United States is pledged for the payment of principal and interest.

2. In bonds of any city, county, town or school district or other subdivision of this State, now organized or which may be hereafter organized, and which is now or may hereafter be authorized to issue bonds under the Constitution and laws of this State, which has not defaulted in the payment of any part of either principal or interest thereof, within five years previous to making such investments.

3. In bonds of the State of Texas or of any State in the Union that has not within the last five years previous to making such investment defaulted in the payment of any part of either principal or interest thereof.

4. In the first mortgage bonds of any steam or electric railroad, the income of which is sufficient to pay all operating expenses and fixed charges, which has its domicile in the State.

5. In bonds and notes secured by first mortgage, deed of trust, or other valid first lien on unincumbered improved real estate to run for a term not longer than ten years, situated in the State, worth at least twice the amount loaned thereon, such bonds or notes to be always accompanied by a complete abstract of title to the property mortgaged and an attorney's certificate or title insurance policy in some company incorporated under the laws of this State, certifying said bonds or notes to be a first lien on the land mortgaged.

It shall be the duty of the directors of such bank or banking and trust company, as soon as practicable, to invest the moneys and funds of such savings department, by purchase or otherwise, in the securities above prescribed and from time to time to sell and reinvest the proceeds of such investment, but for the purpose of meeting current demands in excess of the receipts, any of the securities may be sold, or taken up and replaced in cash by the bank or banking

and trust company out of its general fund, and there shall be kept on hand at all times not less than 15 per cent of the whole amount of such deposits in actual cash, in such savings department.

It shall be lawful to require sixty days' written notice of the withdrawal of any savings deposit, as provided for in this section, at the option of the bank or banking and trust company. In case of the insolvency or liquidation of any State bank or banking and trust company which shall establish or maintain a savings department under the terms of this section, its savings depositors and the remainder, after they have been paid in full, shall be applied in payment of claims of general creditors. It shall be the duty of the president or vice-president and the cashier of each State bank or banking and trust company maintaining a savings department under the provisions of this section to file with the Commissioner of Insurance and Banking not less than ten days after the first calendar month, a statement of the assets and liabilities of such savings department, upon a form to be prescribed by the Commissioner of Insurance and Banking, and it shall be unlawful for any officer of any State bank or banking and trust company to receive or assent to the receiving of any savings deposits when the last preceding monthly statement, as herein provided for, is not conspicuously posted in the office or from where its business is transacted.

The directors of any bank or banking and trust company establishing or maintaining or continuing to maintain a savings department may provide that such rate of interest shall be paid on its saving deposits as it may see fit, payable at such periods and upon such terms and conditions as may be reasonable; provided, that in case the earnings of such savings department are insufficient to pay any interest due upon any savings deposits such interest or the deficiency therein shall be paid by the bank or banking and trust company out of its general funds. At the end of any period for which such bank or banking and trust company may lawfully declare a dividend upon its stock, it shall be proper to transfer to the general funds of such bank or banking and trust company all accumulated earnings of the said savings department after the payment or credit of all interest due and accrued on savings deposits and the legitimate expenses of such departments

have been provided for. In computing the aggregate amount of the average annual deposits of any bank or banking and trust company for the purpose of ascertaining whether or not it shall be required to increase its capital stock as provided in Section 17 of this act, the deposits of its savings department, as provided in this section, shall not be included. All such savings departments shall be governed by the terms and provisions of this act so far as same are applicable and are not in conflict with the special provisions of this section, and shall also be governed by such provisions of the laws of this State applicable to savings banks as are not in conflict with any provision of this act, or of this section, and such reasonable rules and regulations for the control of such savings departments may be adopted and put in force by the board of directors at any regular meeting or by the stockholders at any annual meeting; provided, that such rules and regulations shall not become effective until they have been submitted to the Commissioner of Insurance and Banking and by him approved.

It shall be unlawful for any officer or director of any bank or banking and trust company which shall establish or maintain or continue to maintain a savings department or which shall use or continue to use the word "savings" as provided in this section to knowingly misappropriate any moneys or funds belonging to such savings department or to use or consent to the use of any such moneys or funds otherwise than for the payment of lawful demands of savings depositors, and in the making of such investments as are prescribed in this section, and in the payment of such dividends to the shareholders as are allowed by law to be paid therefrom, or to borrow any of the funds belonging to such savings department, or to in any way be an obligor for moneys loaned by or borrowed of such savings department, or to receive or accept, directly or indirectly, any commission, brokerage or other valuable thing or favor of any kind by reason or on account of any loan or investment made out of the funds of such savings department, or to sell to such savings department any securities or other investment, or willfully and knowingly do or perform any act or transaction, by or as a result of which at any time, the assets of such savings department, including cash, shall not at least equal in amount the deposits in

such savings department, at least 15 per cent of which shall be actual cash in such savings department.

Any officer or director of any State bank or banking and trust company who shall knowingly violate the provisions of this section shall be deemed guilty of a felony and shall, upon conviction, be punished by imprisonment in the State penitentiary for a term of not less than one nor more than five years.

Sec. 41a. Provided, that any bank or trust company, created by virtue of a special act of the Legislature of the State of Texas, that is now and has been for more than three years engaged in the general banking business in Texas and which at the time has only one place of business, and which has heretofore or may hereafter, prior to the taking effect of this law, accepted one or more of the provisions of the acts of the Twenty-ninth Legislature, known as the State Banking Law, and thereby submitted itself to the jurisdiction of the State banking departments, may with the approval of the Commissioner of Banking of the State of Texas avail itself of the provisions of this act.

Sec. 41b. Neither the Commissioner of Insurance and Banking or any regularly appointed clerks or employees of the Department of Insurance and Banking, or any State bank examiner, shall, at any time during his incumbency be financially interested, directly or indirectly, in any State bank or banking and trust company, subject to the supervision of the Department of Insurance and Banking, or knowingly be or become indebted either directly or indirectly to any such State bank or banking and trust company.

Any officer or employee named in this section violating its provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding \$500, and the venue in such case shall be in the county wherein such State bank or banking and trust company is located. The violation of the provisions of this section shall work a forfeiture of the office or position held by the person guilty of such violation.

Sec. 42. Any national bank in this State, approved by the Commissioner, may voluntarily avail its depositors of the protection of the State bank guaranty fund, by application to the State Banking Board, in writing, and the said application may be sustained upon terms and conditions in harmony with the purpose of this act, to be agreed

upon by the State Banking Board, the Commissioner and the Comptroller of the Currency of the United States; provided, that in the event national banks should be required by Federal enactment to pay assessments to any bank guaranty fund of the Federal Government and thereby the deposits in national banks in this State should be guaranteed by virtue of Federal laws, that the national banks having availed themselves of the benefits of this act may withdraw therefrom and have returned to them the unused portion of all assessments levied upon and paid by said banks; however, should the courts declare this section of this bill unconstitutional or unauthorized by law, or in conflict with any other section or provisions of this act, or with any existing banking laws of this State, then such decision shall affect only this section of the act.

Sec. 43. The fact that if this act shall become a law, as much time as possible prior to the first day of January, 1910, will be necessary for the thorough and strict examination of all State banks, and other necessary preparation before that time, and the fact that there are now practically no criminal penalties provided for violating the provisions of the State banking laws, constitute an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Amend committee amendment of the caption as follows (describing same as of the printed House bill):

1. Page 1, line 15, by inserting after the word "all" the word "such," and by inserting after the word "institutions" the words "whose deposits are guaranteed," and by inserting after the word "institutions" in line 27, page 1, the words "whose deposits are guaranteed."

2. Amend amendment, page 1, line 19, by inserting after the word "institutions" the following: "Providing that all corporations organized under the laws of this State prior to the date at which this act shall take effect to do a banking business or to receive funds on deposit, which do not accept the provisions of this act with reference to securing their depositors through the State bank guaranty fund shall file annually with the Superintendent of Banking, of this State, a bond or policy of insurance or other indemnity, providing for the ap-

proval of such bonds to secure the depositors in such bank or other institution at such time and for the succeeding year, and fixing the terms of such bond or other guaranty, providing for the issuance of certificates by the Superintendent of Banking showing compliance with the provisions of this act, providing for the enforcement of the terms and conditions of such bond, policy of insurance or other guaranty of indemnity, and providing for the forfeiture of the charter of any corporation organized under the laws of this State to do the banking business, or to receive funds on deposit which shall fail or refuse to comply with the provisions of this act, and providing that any incorporation not incorporated under the laws of Texas and transacting business in this State under a permit which shall violate the provisions of this act, shall not receive another permit from the State, and providing that the maker or signers of such bonds, policy of insurance or other guaranty of indemnity executed under the provisions of this act shall be subrogated to the rights of the depositors for whose benefit payments shall be made thereon upon the making of such payments, prescribing and fixing the lien in favor of depositors against exempt property of the maker and sureties on such bond."

1. Amend committee amendments by striking out Section 1 thereof, and inserting in lieu thereof the following:

"Section 1. On and after the first day of January, 1910, all banks of deposit or discount, or of both deposit and discount, and banking and trust companies, in this State incorporated after this act shall take effect under and by virtue of the provisions of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas known as the State banking law, and all banking corporations which may take advantage of the provisions of this act for the guaranty of their deposits by the State bank guaranty fund, as hereinafter provided, shall be liable pro rata in the manner and proportion and to the extent hereinafter provided for the payment of all the liabilities of each such banking or other corporation to guaranteed depositors as hereinafter defined. All of the classes of banking corporations above referred to shall, for the purposes of this act, be classed and known and hereafter referred to as 'State Banks,' and all of such corporations whose depositors are

or may be guaranteed and paid out of the State bank guaranty fund in accordance with the provisions of this act, shall be known and hereafter referred to as 'State banks whose deposits are guaranteed.'"

2. Amend the committee amendment to Senate bill No. 4, as follows (describing the committee amendment as House bill No. 1):

Insert on page 3, line 5, after the word "banks" the words "whose deposits are guaranteed."

3. Amend page 4, line 31, by adding after the word "business," the following: "Such certificates of authority when issued to a State bank whose deposits are not guaranteed shall contain the following statement on the face thereof in bold type: 'None of the deposits of this bank are guaranteed or to be paid out of the State bank guaranty fund.'"

4. Amend page 8, line 14, by adding at the end of said line 14, the following: "Whose deposits are guaranteed."

5. Amend page 8, line 26, after the word "amount" by inserting as follows: "Provided that such original assessment shall in no event exceed 2 per cent of such average daily deposits and 6 per cent of such capital, surplus and undivided profit."

6. Amend by inserting the words "whose deposits are guaranteed" in the following places: Page 8, line 37, after the word "banks"; page 8, line 39, after the word "banks"; page 8, line 39, after the word "bank"; page 10, line 29, after the word "bank"; page 18, line 34, after the word "bank"; page 20, line 25, after the word "bank"; page 21, line 3, after the word "bank"; page 21, line 6, after the word "banks"; page 22, line 32, after the word "bank"; page 23, line 12, after the word "bank"; page 23, line 18, after the word "bank"; page 23, line 27, after the word "bank."

7. Amend page 14, line 21, by inserting after the word "shall" the words "in the case of a State bank whose deposits are guaranteed."

8. Amend page 20, line 27, by inserting after the word "any" the word "such."

9. Amend page 23, line 18, by striking out the word "some" and inserting in lieu thereof the word "such."

10. Amend page 29, line 12, by inserting after the word "bank" the following: "Whose deposits are guaranteed by the State bank guaranty fund."

11. Amend by numbering Section 41a as Section 42, Section 41b as Section 43.

12. Amend by inserting in Section 44 as follows:

Sec. 44. Any State bank incorporated prior to the taking effect of this act may avail its depositors of the protection of the State bank guaranty fund as provided in this act in the following manner: The board of directors of any such State bank may and are required, upon the written request of the owners of a major part of the capital stock at any regular meeting to call a meeting of all the stockholders to be held in the office of such State bank, of which each stockholder shall be given not less than ten days' written notice by registered mail for the purpose of determining whether or not such State bank shall avail its depositors of the protection of the State bank guaranty fund, and if at such stockholders' meeting the holders of a majority of the stock, or their duly authorized proxies, shall vote to so avail their depositors of the protection of the State bank guaranty fund, such vote shall be entered upon the minutes of the corporation and a duly certified copy thereof, attested by the president and cashier, shall be immediately forwarded to the Commissioner of Insurance and Banking, who shall file the same in his office and shall record the same in a book kept for that purpose, and thereafter such State bank shall be in all respects subject to and governed by all the provisions of this act upon State banks whose deposits are guaranteed.

Such State bank shall pay into the State bank guaranty fund in the same manner and the same percentage of its average annual deposits it shall have been in business for a period of one year prior to November 1, 1909, or prior to November 1 of any year thereafter preceding the date upon which it shall so avail its depositors of the protection of the State bank guaranty fund or the same percentage of its capital, surplus and undivided profits, if it shall not have been in business for such period of one year, as is required by this act of State banks incorporated after this act shall take effect.

13. Amend by inserting Sections 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 and 55, as follows:

Sec. 45. It shall be the duty of each banking corporation, or other corporation receiving funds on deposit, created under the laws of the State of Texas and transacting business in the State, other than State banks whose deposits are guaranteed, to file annually with

the Superintendent of Banking, a bond, policy of insurance, or other guaranty of indemnity in an amount equal to twice the amount of its capital stock, which said bond, policy of insurance or other guaranty of indemnity shall be for and inure to the benefit of all depositors, and shall be cumulative of any and all other security or liability whatsoever provided by law for the security of depositors. Such instruments and the security thereby provided, shall be approved by the county judge of the county in which such business is domiciled, and by the Superintendent of Banking, and shall take effect and be in force from and after the time it is approved and filed in the office of the Superintendent of Banking. Every such corporation shall comply with the provisions of this act within thirty days after the time said act shall take effect, and every such corporation that may hereafter be incorporated shall comply with the provisions of this section, before it shall be permitted to receive deposits. Every such bond or policy of insurance or other guaranty of indemnity filed as provided for in this act, shall secure depositors at the time said bond is filed and approved and all deposits made during the period of twelve months thereafter.

Sec. 46. Any person, firm or corporation other than as described in Section 1 hereof transacting lawfully a banking business in this State, or lawfully receiving funds on deposit, shall be authorized to take advantage of the provisions of this act, and to file with the Superintendent of Banking a bond, or policy of insurance or other guaranty of indemnity. And such corporation shall, in such event, file a bond or policy of insurance or guaranty of indemnity in like amount as it would be required to file if incorporated under the laws of Texas. And such person or firm transacting the business of a private bank shall, in such event, file a bond or policy of insurance or other guaranty of indemnity in an amount equal to the average of the daily deposits with such person or firm for the preceding period of twelve months; provided, that no person or firm shall be permitted to take the benefit of this act, unless such person or firm shall have been engaged for the period of at least twelve months; provided, that any such person, firm or corporation shall submit to the Superintendent of Banking such reports and statements concerning its deposits and concerning the solvency of such bond,

or policy of insurance; or guaranty of indemnity, and shall pay all such reasonable expenses as may be incurred by him in the making of an examination thereof; provided further, that such bond, policy of insurance or other guaranty of indemnity shall be approved by the county judge and the Superintendent of Banking, and filed with said Superintendent of Banking, as provided for in Section 1 hereof.

Sec. 47. In the event of default by any person, firm or corporation, transacting such business of receiving deposits which shall make, execute or file the bond, or policy of insurance, or other guaranty of indemnity provided for herein, in the payment of a deposit lawfully demanded, it shall be the duty of the Superintendent of Banking, when such default shall be made known to him, to report the same to the Attorney General of the State, and to give notice thereof to each and all persons who may be obligated by reason of such default and of the conditions of such bond, or policy of insurance, or other guaranty of indemnity, and upon mailing of such notice, the full amount of the same shall thereby become due and payable. In case the bond herein above provided for shall be executed by personal obligation or security, then in no event shall such bond be deemed adequate and sufficient unless and until it shall have been executed by at least three different persons or individuals of financial responsibility and solvency satisfactory to the authorities herein authorized by this act to approve such bond.

When any bond or policy of insurance or other guaranty of indemnity provided for herein shall become due and payable in accordance with the provisions of this act, it shall be the duty of the makers and signers thereof to pay over the full amount of the same to the Superintendent of Banking, or such part thereof as he may demand, to be held by him in trust for the depositors with the person, firm or corporation furnishing such bond or policy of insurance or other guaranty of indemnity. All proceeds thus arising, either from voluntary payment or otherwise, shall be payable to the Superintendent of Banking and shall be by him properly paid over pro rata to unpaid depositors, upon presentation to him of satisfactory proofs of their claims, which proofs shall be received and filed and before payment thereof shall be approved by him.

In the event any maker or signer as surety of such bond or policy of insurance or other guaranty of indemnity shall be a corporation incorporated under the laws of Texas, and it shall refuse or fail to pay upon demand therefor, as herein provided, the full amount due by it upon such bond or policy of insurance or other guaranty of indemnity, its charter shall thereby become subject to forfeiture, and it shall be the duty of the Attorney General, upon receiving notice thereof from the Superintendent of Banking, to bring suit in the district court of Travis county, Texas, to forfeit such charter, and upon hearing thereof, decree and judgment may be rendered annulling and forfeiting the charter of such corporation.

In the event any maker or signer as surety of such bond, or policy of insurance or other guaranty of indemnity shall be a corporation incorporated elsewhere than in the State of Texas, and transacting business in this State under a permit from the State, and it shall refuse or fail to pay over on demand therefor by the Superintendent of Banking, as herein provided, the full amount of its liability upon such bond, or policy of insurance, or other guaranty of indemnity, it shall thereupon be the duty of the Superintendent of Banking to notify the Secretary of State of said facts, and it shall be the duty of the Secretary of State and the Superintendent of Banking and Commissioner of Insurance, thereafter to refuse to issue any permit to said corporation to transact business in the State, until it shall show to the satisfaction of such officers that it has fully discharged its liability upon such bond or policy of insurance or other guaranty of indemnity, upon which default was thus made.

In the event such person, firm or corporation in default in the payment of a default lawfully demanded shall so continue for the period of ninety days from the beginning thereof, and the obligation of such bond or policy of insurance or other guaranty of indemnity, is not discharged, it shall be the duty of the Attorney General, or any district or county attorneys acting at his instance, to bring suit upon such bond or policy of insurance or other guaranty of indemnity, in the name of the Governor, and for the benefit of all persons who may be beneficiaries thereof, by reason of its terms and conditions. Such suit shall be instituted in the district court of the county where the person, firm or corporation furnishing such bond, policy

of insurance or other guaranty of indemnity transacted such business at the time of the filing thereof, or in any county immediately adjacent thereto, at the option of the Attorney General. Any action upon such bond or policy of insurance or other guaranty of indemnity shall be brought within twelve months of the date therein fixed for the termination thereof.

In the event any person, firm, corporation or association of persons executing or signing the bond or guaranty herein provided for, shall transfer such portion of his or its property within four months prior to the service of the notice hereinabove provided for in case of default in the payment of the deposit lawfully demanded, as that his remaining property, over and above all lawful exemptions, would be insufficient to meet the requirements of the obligation in said bond or guaranty incurred and assumed, then, in such event such transfer of said property shall be void, as to any unpaid balance due and payable under said bond or guaranty, and there shall be and is hereby created a preference lien upon the property so undertaken to be transferred in favor of the State Superintendent of Banking as trustee for and on behalf of the lawful depositors of any such person, firm or corporation so making default in the payment of its depositor, or depositors, to the extent of any portion of any unpaid liability due and owing upon such bond or guaranty; provided, that the satisfaction of such bond or guaranty as provided for in this act, and the terms of such bond, shall satisfy and discharge such preference lien hereinabove provided for.

Sec. 48. Whenever any maker or signer of any bond or policy of insurance or other guaranty of indemnity other than the principal therein shall be required under the provisions of this act to pay over for the benefit of the depositors with any person, firm or corporation, any sum of money, such maker or signer making or participating in such payment shall thereby become subrogated to the rights of a depositor, to the extent of the payment or payments so made, and entitled to assert such rights in accordance with the laws of the State, secondary and subject to the rights of all depositors secured by such bond, or policy of insurance or other guaranty of indemnity.

Sec. 49. The Superintendent of Banking shall charge a fee of not to exceed

\$20 against each corporation incorporated under the laws of the State to do a banking business or to receive funds on deposit for the examination of the bond or policy of insurance or other guaranty of indemnity provided for in Section 1 and the examination of the solvency thereof and for the filing of the same, and shall be authorized to charge an examination fee sufficient to cover the actual expenses thereof against any other person, firm or corporation permitted to file such bond or policy of insurance or other guaranty of indemnity under the provisions of this act.

Sec. 50. The bond, or policy of insurance, or other guaranty of indemnity herein provided for shall contain substantially the following provisions:

The State of Texas,

County of.....

Know all men by these presents:

That we,,

....., as principal,

and, and

..... as sureties,

are held and firmly bound unto the Governor of the State of Texas, and his

successors in office in trust for the benefit of depositors in the sum of

..... Dollars, payable

as provided by the laws of Texas at the

time of the execution hereof, conditioned

that the above bound

..... will pay upon demand,

or in accordance with its certificates

of deposit, to the persons entitled there-

to all deposits in said bank at the date

of said bond and all other deposits made

therein during the period of one year

from the date thereof. Upon payment

of any sum or sums made obligatory

by reason of the terms hereof, any sure-

ty hereon making or participating in

such payment shall thereby be subro-

gated to the rights of a depositor and

entitled to assert such rights in ac-

cordance with the laws of the State,

secondary and subject to the rights of

all depositors secured by the terms

hereof.

Sec. 51. The security for the benefit

of depositors provided for by this act

may be divided into two or more bonds,

policies of insurance, or other guaran-

ties of indemnity, or any part thereof

may be given in either of such forms

of guaranty of indemnity, provided that

the aggregate thereof shall be equal to

the total amount of the security re-

quired in accordance with the provisions of this act.

Sec. 52. Whenever the deposits of any corporation incorporated under the laws of Texas which shall have filed a bond or policy of insurance or other guaranty of indemnity with the Superintendent of Banking in accordance with the provisions of this act shall exceed five times the amount of its capital, it shall be its duty to furnish, in addition to the security theretofore so given, additional security for the protection of its depositors, which additional security shall consist of one or more bonds, or policies of insurance, or other guaranties of indemnity, as herein provided, in a sum or sums which shall, in the aggregate, be equal to the total amount of such excess of deposits above five times the amount of the capital of such corporation. In the event any such corporation shall refuse or fail to comply with the provisions of this section, after demand by the Superintendent of Banking, it shall be his duty to report the facts to the Attorney General, who shall thereupon institute suit in the district court of Travis county to forfeit the charter of such corporation, and such court shall, upon hearing and proof thereof, enter decree and judgment therein forfeiting and annulling the charter of such corporation.

Sec. 53. If any corporation organized under the laws of this State to do a banking business or to receive funds on deposit other than State banks whose deposits are guaranteed, shall fail or refuse to file the bond, or policy of insurance, or other guaranty of indemnity, provided for in Section 1 hereof in accordance therewith, it shall be the duty of the Superintendent of Banking to promptly report such failure to the Attorney General, who shall thereupon institute suit in the district court of Travis county to forfeit the charter of such corporation, and such court shall, upon hearing and proof thereof, enter decree and judgment therein forfeiting and annulling the charter of such corporation.

Sec. 54. If at any time it shall appear to the Superintendent of Banking that any bond or policy of insurance or other guaranty of indemnity filed as provided for herein by any corporation organized under the laws of Texas is insufficient, he shall have the authority, and it shall be his duty, to require such corporation to file new or additional security in an amount sufficient to protect

its depositors in accordance with the provisions of this act. In the event such corporation shall refuse or fail to comply with such communicate the facts to the Attorney General, who shall thereupon institute such proceedings and take such steps as the nature of the case may require. The Superintendent of Banking and the Attorney General shall in such event have and exercise, for the protection of depositors, all the authority conferred upon them by Section 40 of Chapter 10 of the General Laws, enacted at the First Called Session of the Twenty-ninth Legislature.

Sec. 55. The Superintendent of Banking shall issue to every person, firm or corporation acting thereunder and entitled thereto, a proper certificate, showing compliance with the provisions of this act and the amount and nature of the security furnished. Such person, firm or corporation shall post such certificate conspicuously in its place of business, and may publish or advertise said certificate, or the facts recited therein; provided, any person, firm or corporation which shall falsely publish, advertise, or represent, or cause to be falsely published, advertised or represented any statement of compliance with the provisions of this act, or any false statement as to the terms of such certificate, or the facts recited in said certificate, shall be deemed guilty of a misdemeanor and shall be punished for each offense by fine not to exceed one thousand dollars.

14. Amend by changing the number of the emergency clause from 43 to 56.

FREE CONFERENCE COMMITTEE— APPOINTMENT.

The Chair here announced the appointment of the following Free Conference Committee on Senate bill No. 4: Senators Senter, Hume, Hudspeth, Sturgeon and Watson.

BILLS SIGNED.

The Chair (President Pro Tem. Brachfield) gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

Senate bill No. 23, "An Act to provide a system of electric power, electric lights and water works for the purpose of supplying electric power, electric lights and water to the State Capitol,

the General Land Office, Governor's Mansion, State University and the various public institutions of the State of Texas in the city of Austin and adjacent thereto; to create a board with authority to construct or have constructed or purchase and put in operation the necessary property, machinery and plant for such purpose, and with authority to lay mains and pipes and to erect poles and place wires across and along streets and alleys, public grounds and public highways in the city of Austin, and public roads adjacent thereto, and to secure from the owners, by purchase or condemnation proceedings, if necessary, the right to lay such mains and pipes and erect such poles and place such wires across private lands; to provide for the operation of such plant, to make an appropriation therefor, and to declare an emergency."

Senate bill No. 87, "An Act to authorize any county or political subdivision or other defined district of a county, upon a vote of two-thirds majority of the resident property taxpayers voting thereon, who are qualified electors of such county or political subdivision or defined districts of the county to issue bonds or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of such county or political subdivision or defined district thereof, and to levy and collect taxes to pay the interest on said bonds, and to provide a sinking fund for the redemption thereof for the purpose of constructing, maintaining and operating macadamized, graveled and paved roads and turnpikes or in aid thereof; creating road districts; making them bodies corporate; creating the office of road superintendent; providing that any county operating under a special road law may take advantage of any of the provisions of this act; repealing Senate bill No. 264, passed by the Regular Session of the Thirty-first Legislature, and House bill No. 727, passed by the Thirtieth Legislature, and all other laws and parts of laws in conflict herewith, and declaring an emergency."

Senate bill No. 84, "An Act to amend Section 2 of an act passed by the Regular Session of the Thirty-first Legislature, known as an act creating an independent school district in the county of Gonzales, State of Texas, to be known as the Nixon Independent School District, and to have all the powers, rights and duties of independent school districts formed by the corporation of towns and villages for free school purposes only, and declaring an emergency."

Senate bill No. 74, "An Act giving to the Commissioner of Agriculture, the power and making it his duty to appoint a competent drainage and irrigation engineer, prescribing his duties, fixing his compensation, and declaring an emergency."

The following bills were signed by Lieutenant Governor Davidson:

House bill No. 117, "An Act incorporating the Bowie Independent School District in Montague county, Texas, for free school purposes only; defining its boundaries; providing for a board of trustees; providing for a treasurer for the funds of said district and providing for an assessor and collector of the taxes of said district; divesting the city of Bowie of the control of its public schools, and the title to school-property; investing the same in said Bowie Independent School District, and its board of trustees, and prescribing the rights, powers, privileges and duties of said Bowie Independent School District, and its board of trustees and officers, and declaring an emergency."

House bill No. 116, "An Act creating the Nocona School District in Montague county, Texas; defining its boundaries; providing for the election of a board of trustees to manage and control the public free schools within said district, investing said district with the rights, powers, privileges and duties of a town or village incorporated for free school purposes only under the General Laws, and declaring an emergency."

House bill No. 16, "An Act to amend Article 1019, Title 27, Chapter 16 of the Revised Civil Statutes of the State of Texas, relating to appearance by brief of attorneys for either party in the Courts of Civil Appeals, and declaring an emergency."

House bill No. 122, "An Act creating an independent school district to be known as the Goliad Independent School District, including within its limits the unincorporated town of Goliad, in Goliad county, and to provide for a board of trustees and other officers of such district; to authorize the board of trustees to levy, assess and collect special taxes, and to issue and dispose of bonds of such district for the purpose of purchasing school sites, and erecting, repairing, furnishing and equipping school buildings within the same, and to pay current expenses in the maintenance and support of the public schools therein, and to further prescribe the duties and authorities of said board of trustees, and declaring an emergency," with engrossed rider.

House Concurrent Resolution No. 3, same being a resolution asking President Taft and Secretary of State Knox to give the cotton producing States representation by appointment to diplomatic and consular positions in foreign countries to the end that the market for cotton and cotton goods may be extended and broadened, etc.

House bill No. 118, "An Act to amend Chapter 75 of the General Laws of the State of Texas, passed by the Twenty-seventh Legislature, creating a more efficient road system for Grayson county; and Chapter 65 of the Special Laws of this State, amendatory thereof, passed by the Thirtieth Legislature at its Regular Session; providing for the creation of road districts in any political subdivision or any defined district hereafter to be described in said county; prescribing the procedure necessary to the creation of such district; authorizing such district to issue bonds for the purpose of constructing and maintaining under the direction of the commissioners court of said county of macadamized, graveled or paved roads or turnpikes, or in aid thereof; providing for the holding election and the manner thereof and to determine whether or not said bonds shall be issued; declaring the qualifications of voters at such election; providing for the interest on such bonds and creating a sinking fund for the retirement of same and providing for the assessment and collection of taxes for such purpose; and creating a lien upon all taxable property of said district; providing for the investment of said sinking fund and for its custody and deposit when not invested; providing that the courts shall take notice of this act in the same manner as General Laws of the State, making it cumulative of the General Laws of the State except when in conflict with this act, and declaring an emergency."

ADJOURNMENT.

On motion of Senator Mayfield, the Senate, at 7 o'clock p. m., adjourned until 10 o'clock tomorrow morning.

APPENDIX.

COMMITTEE REPORTS.

(Majority Report.)

Committee Room,
Austin, Texas, April 8, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Insurance,

Statistics and History, to whom was referred

House bill No. 1, A bill to be entitled "An Act to provide for the more efficient regulation and supervision of banks of deposits or discounts or both of deposit and discount and banking and trust companies in this State, incorporated under and by virtue of the provisions of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas, and known as the State Banking Law, providing additional safeguards for the protection of the depositors and other creditors of such institutions; providing that all institutions shall be mutually liable pro rata within certain limitation for the payment of the liabilities of each such institutions to its guaranteed depositors, and defining the guaranteed deposit and the guaranteed depositors of such institutions, providing for the creation of a State Banking Board and describing its powers and duties; prescribing additional powers and duties of the Commissioner of Insurance and Banking and providing for the issuance by such Commissioner of all charters for such institutions; requiring all such institutions to hereafter hold certificates of authority to transact the banking business; providing for the creation of the State Bank Guaranty Fund and for its maintenance and use in the payment of guaranteed deposits of such institutions; providing for the making good of any impairment of the capital stock of such institutions; prescribing the conditions upon which it shall be the duty of the Commissioner of Insurance and Banking or the State Banking Board to close and take possession of the property and business of such institutions and providing for their liquidation, and for the payments of their liabilities to their guaranteed depositors out of the State Bank Guaranty Fund; providing the amount of capital stock required to be maintained by such institutions in proportion to their deposits; providing for frequent and thorough examination of State banks and other banks subject by law to examination and supervision and for the appointment of the necessary number of examiners for that purpose and providing for their compensation; prescribing the terms upon which State banks may make loans upon the collateral security of their own shares of stock; limiting the indebtedness of State banks; regulating the pledging of their securities as collateral for money

borrowed and the making of loans upon the collateral security of shares of stock in other banking corporations; prescribing the time within which the loans of State banks shall mature; prescribing an oath to be taken by directors of State banks, and requiring reports to be made at regular meetings of the board of loans and discounts made during the preceding month; making it a penal offense for officers or employes of State banks to embezzle, abstract or wilfully misapply its money, funds or securities or to issue evidence of indebtedness or bind such banks for the payment of any indebtedness without the authority of the board of directors or to aid, or abet any such offense or for an active officer of a State bank to unlawfully borrow any of its funds, or for an officer or director to loan or consent to the loaning of its funds unlawfully to an active officer, or for the Commissioner of Insurance and Banking or any examiner or special agent to fail and refuse to give notice of violations of the criminal provisions of the laws of this State coming to their attention, or for any officer, director, agent or employe of any State bank to knowingly and wilfully do any act, as such, expressly forbidden by law, or to omit to perform any duty imposed by law, or for any officer or director of a State bank to make or concur in or consent to the making of any loan not authorized by law, or for any officer, clerk or agent of any State bank to certify any check before the amount thereof shall have been regularly entered to the credit of the drawer thereof: providing that national banking associations shall avail themselves of certain provisions of this act, and providing for the establishment of savings departments and for their regulation, and generally defining offenses against the banking laws of this State, and prescribing penalties for all such offenses so defined, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the attached substitute do pass, and be printed in the Journal.

HUDSPETH, Chairman.

A BILL

To Be Entitled

An Act to require each corporation organized under the laws of this State, to do a banking business or to re-

ceive funds on deposit to file annually with the Commissioner of Insurance and Banking for the State a bond, or policy of insurance or other guaranty of indemnity, to be approved by the county judge of the county in which such business is domiciled and by such Commissioner of Insurance and Banking to secure the depositors in such bank or other depository at such time and for the succeeding year, and fixing the terms of such bond, policy of insurance, or other guaranty of indemnity and authorizing any person, firm or corporation doing a banking business in the State, or receiving funds on deposit to take the benefits of the provisions of this act and providing for the issuance of certificates by the Commissioner of Insurance and Banking, showing compliance with the provisions of this act, and providing for the enforcement of the terms and conditions of such bond or policy of insurance or other guaranty of indemnity, and providing for the forfeiture of the charter of any corporation organized under the laws of this State, to do a banking business or to receive funds on deposit which shall fail or refuse to comply with the provisions of this act, and providing that any corporation not incorporated under the laws of Texas, and transacting business in the State under a permit therefrom which shall violate the provisions of this act shall not receive another permit from the State, and that the makers or signers as sureties of any bond or policy of insurance or other guaranty of indemnity hereunder upon making payments thereunder shall be subrogated to the rights of the depositors for whose benefits such payments shall be made, and providing penalties for the violation of the provisions of this act, and for their enforcement, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. It shall be the duty of each banking corporation, or other corporation receiving funds on deposit created under the laws of the State of Texas and transacting business in the State, to file annually with the Commissioner of Insurance and Banking, a bond, policy of insurance, or other guaranty of indemnity in an amount equal to twice the amount of its capital stock,

which said bond, policy of insurance, or other guaranty of indemnity shall be for and inure to the benefit of all depositors. Such instrument and the security thereby provided shall be approved by the county judge of the county in which such business is domiciled, and by the Commissioner of Insurance and Banking and shall take effect and be in force from and after the time it is approved and filed in the office of the Commissioner of Insurance and Banking. Every such corporation shall comply with the provisions of this act, within thirty days after the time said act shall take effect and every such corporation that may hereafter be incorporated shall comply with the provisions of this section before it shall be permitted to receive deposits. Every such bond or policy of insurance or other guaranty of indemnity filed as provided for in this act shall secure depositors at the time said bond is filed and approved and all deposits made during the period of twelve months thereafter.

Sec. 2. Any person, firm or corporation other than as described in Section 1 hereof transacting lawfully a banking business in this State, or lawfully receiving funds on deposit, shall be authorized to take advantage of the provision of this act and to file with the Commissioner of Insurance and Banking a bond, or policy or other guaranty of indemnity. Any such corporation shall, in such event, file a bond or policy of insurance or guaranty of indemnity in like amount as it would be required to file if incorporated under the laws of Texas. Any such person or firm transacting the business of a private bank shall in such event file a bond or policy of insurance or other guaranty of indemnity in an amount equal to the average of the daily deposits with such persons or firm for the preceding period of twelve months; provided, that no person or firm shall be permitted to take the benefit of this act unless such person or firm shall have been engaged in such business in the State of Texas for the period of at least twelve months; provided, that any such person, firm or corporation shall submit to the Commissioner of Insurance and Banking such reports and statements concerning its deposits, and concerning the solvency of such bond, or policy of insurance, or other guaranty of indemnity as he may require in order to enable him to determine the sufficiency of such bond, or policy of insurance or other guaranty of

indemnity, and shall pay all such reasonable expenses as may be incurred by him in the making of an examination thereof; provided further, that such bond, policy of insurance or other guaranty shall be approved by the county judge and the Commissioner of Insurance and Banking and filed with the Commissioner of Insurance and Banking as provided for in Section 1 hereof.

Sec. 3. In the event of default by any person, firm or corporation transacting such business of receiving deposits which shall make, execute or file the bond or policy of insurance or other guaranty of indemnity, provided for herein, in the payment of a deposit lawfully demanded, it shall be the duty of the Commissioner of Insurance and Banking, when such default shall be made known to him, to report the same to the Attorney General of the State, and to give notice thereof to each and all persons who may be obligated by reason of such default and of the conditions of such bond, or policy of insurance or other guaranty of indemnity, and upon the mailing of such notice the full amount of the same shall thereby become due and payable. In case the bond hereinabove provided for shall be executed by personal obligation or security, then in no event shall such bond be deemed adequate and sufficient unless and until it shall have been executed by at least three different persons or individuals of financial responsibility and solvency satisfactory to the authorities herein authorized by this act to approve such bond.

When any bond or policy of insurance or other guaranty of indemnity provided for herein shall become due and payable in accordance with the provisions of this act, it shall be the duty of the makers and signers thereof to pay over the full amount of the same to the Commissioner of Insurance and Banking, or such part thereof as he may demand, to be held by him in trust for the depositors with the person, firm or corporation furnishing such bond or policy of insurance or other guaranty of indemnity. All proceeds thus arising either from voluntary payment or otherwise, shall be payable to the Commissioner of Insurance and Banking, and shall be by him promptly paid over pro rata to unpaid depositors upon presentation to him of satisfactory proofs of their claims, which proofs shall be received and filed and before payment, thereof shall be approved by him.

In the event any maker or signer as sureties of such bond or policy of insurance or other guaranty of indemnity shall be a corporation incorporated under the laws of Texas and it shall refuse or fail to pay over, upon demand therefor, as herein provided, the full amount due by it upon such bond or policy of insurance or other guaranty of indemnity, its charter shall thereby become subject to forfeiture, and it shall be the duty of the Attorney General upon receiving notice thereof from the Commissioner of Insurance and Banking to bring suit in the district court of Travis county, Texas, to forfeit such charter, and upon hearing thereof decree and judgment may be rendered, annulling and forfeiting the charter of such corporation.

In the event any maker or signer as surety of such bond, or policy of insurance, or other guaranty of indemnity shall be a corporation incorporated elsewhere than in the State of Texas, and transacting business in this State under a permit from the State, and it shall refuse or fail to pay over on demand therefor by the Commissioner of Insurance and Banking, as herein provided, the full amount of its liabilities upon any such bond, or policy of insurance or other guaranty of indemnity, it shall thereupon be the duty of the Commissioner of Insurance and Banking to notify the Secretary of State of said facts, and it shall be the duty of the Secretary of State and the Commissioner of Insurance and Banking thereafter to refuse any permit to said corporation to transact business in the State until it shall show to the satisfaction of such officers that it has fully discharged its liabilities upon such bond, or policy of insurance or other guaranty of indemnity upon which default was thus made.

In the event such person, firm or corporation in default in the payment of a default lawfully demanded, shall so continue for the period of ninety days from the beginning thereof, and the obligation of such bond, or policy of insurance or other guaranty of indemnity is not discharged it shall be the duty of the Attorney General or any district or county attorney, acting at his instance, to bring suit upon such bond or policy of insurance or other guaranty of indemnity in the name of the Governor and for the benefit of all persons who may be beneficiaries thereof by reason of its terms and conditions. Such

suit shall be instituted in the district court of the county where the person, firm or corporation furnishing such bond, policy of insurance or other guaranty of indemnity transacted such business at the time of the filing thereof, or in any county immediately adjacent thereto at the option of the Attorney General. Any action upon such bond, or policy of insurance or other guaranty of indemnity shall be brought within twelve months of the date therein fixed for the termination thereof.

In the event any person, firm or corporation or association of persons executing or signing the bond or guaranty herein provided for, shall transfer such portion of his or its property within four months prior to the service of the notice herein above provided for in case of default in the payment of the deposit lawfully demanded as that his remaining property, over and above all lawful exemptions, would be insufficient to meet the requirements of the obligation in said bond or guaranty incurred and assumed, then, in such event, such transfer of said property shall be void as to any unpaid balance due and payable under said bond or guaranty, and there shall be and is hereby created a preference lien upon the property so undertaken to be transferred in favor of the Commissioner of Insurance and Banking as trustee for and on behalf of the lawful depositors of any such person, firm or corporation so making default in the payment of its depositors, or depositors, to the extent of any portion of any unpaid liability due and owing upon such bond or guaranty, provided that the satisfaction of such bond or guaranty as provided for in this act, and the terms of such bond shall satisfy and discharge such preference lien herein above provided for.

Sec. 4. Whenever any maker or signer of any bond or policy of insurance, or other guaranty of indemnity other than the principal therein, shall be required under the provisions of this act to pay over for the benefit of the depositors with any person or corporation, any sum or sums of money such maker or signer making or participating in such payment, shall thereby become subrogated to the rights of a depositor to the extent of the payment or payments so made, and entitled to assert such right in accordance with the laws of the State, secondary and subject to the rights of all depositors secured by such

bond, or policy of insurance or other guaranty or indemnity.

Sec. 5. The Commissioner of Insurance and Banking shall charge a fee of not to exceed \$20 against each corporation incorporated under the laws of the State to do a banking business or to receive funds on deposit for the examination of the bond, or policy of insurance, or other guaranty of indemnity provided for in Section 1, and the examination of the solvency thereof and for the filing of the same shall be authorized to charge an examination fee sufficient to cover the actual expenses thereof against any surety herein making or participating to file such bond or policy of insurance or other guaranty of indemnity under the provisions of this act.

Sec. 6. The bond, or policy or insurance or other guaranty of indemnity herein provided for shall contain substantially the following provisions:

State of Texas,

County of

Know all men by these presents: That we,, as principal, and, and, as sureties, are held and firmly bound unto the Governor of the State of Texas, and his successors in office in trust for the benefit of depositors in the sum of dollars, payable as provided by the law of Texas, at the time of the execution hereof, conditioned that the above bound will pay upon demand, or in accordance with the certificate of deposit to the persons entitled thereto all deposits in said bank at the date of said bond and all other deposits made therein during the period of one year from the date thereof. Upon payment of any sum or sums made obligatory by reason of the terms hereof, any surety herein making or participating in such payment shall thereby be subrogated to the rights of a depositor and entitled to assert such rights in accordance with the laws of the State, secondary and subject to the rights of all depositors secured by the terms hereof.

Sec. 7. The security for the benefit of depositors provided for by this act may be divided into two or more bonds, policies of insurance or other guaranties of indemnity, or any part thereof may be given in either of such forms of guaranty of indemnity, provided that the aggregate thereof shall be equal to the total amount of the security re-

quired in accordance with the provisions of this act.

Sec. 8. Whenever the deposits of any corporation incorporated under the laws of Texas which shall have filed a bond, or policy of insurance or other guaranty of indemnity with the Commissioner of Insurance and Banking in accordance with the provisions of this act shall exceed five times the amount of its capital it shall be its duty to furnish, in addition to the security theretofore so given, additional security for the protection of its depositors, which additional security shall consist of one or more bonds, or policies of insurance or other guaranties of indemnity, as herein provided, in a sum or sums, which shall, in the aggregate, be equal to the total amount of such excess of deposits above five times the amount of the capital of such corporation. In the event any such corporation shall refuse or fail to comply with the provisions of this section, after demand by the Commissioner of Insurance and Banking shall be his duty to report the facts to the Attorney General, who shall thereupon institute suit in the district court of Travis county to forfeit the charter of such corporation, and such court shall, upon hearing and proof thereof, enter decree and judgment therein, forfeiting and annulling the charter of such corporation.

Sec. 9. If any corporation organized under the laws of this State, to do a banking business or to receive funds on deposit shall fail or refuse to file the bond, or policy of insurance or other guaranty of indemnity, provided for in Section 1 hereof, in accordance therewith, it shall be the duty of the Commissioner of Insurance and Banking to promptly report such failure to the Attorney General, who shall thereupon institute suit in the district court of Travis county to forfeit the charter of such corporation, and such court shall, upon hearing and proof thereof, enter decree and judgment therein forfeiting and annulling the charter of such corporation.

Sec. 10. If at any time it shall appear to the Commissioner of Insurance and Banking that any bond, or policy of insurance or other guaranty of indemnity filed as provided for herein by any corporation organized under the laws of Texas is insufficient, he shall have the authority, and it shall be his duty, to require such corporation to file new or additional security in an amount

sufficient to protect its depositors in accordance with the provisions of this act. In the event such corporation shall refuse or fail to comply with such, communicate the facts to the Attorney General, who shall thereupon institute such proceedings and take such steps as the nature of the case may require. The Commissioner of Insurance and Banking and the Attorney General shall, in such event, have and exercise, for the protection of depositors, all the authority conferred upon them by Section 40 of Chapter 10 of the General Laws, enacted at the First Called Session of the Twenty-ninth Legislature.

Sec. 11. The Commissioner of Insurance and Banking shall issue to every person, firm or corporation acting hereunder and entitled thereto, a proper certificate showing the compliance with the provisions of this act and the amount and nature of the security furnished. Such person, firm or corporation, shall post such certificate conspicuously in its place of business, and may publish or advertise said certificate, or the facts recited therein, provided, any person, firm or corporation which shall falsely publish, advertise or represent or cause to be falsely published, advertised or represented any statement of compliance with the provisions of this act or any false statement as to the terms of such certificate or the facts recited in said certificate, shall be deemed guilty of a misdemeanor and shall be punished for each offense by fine not to exceed one thousand dollars.

Sec. 12. The fact that no adequate provision now exists for the execution and filing of bonds or other indemnities for the protection of depositors in banking and other concerns receiving funds for deposit in this State, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and it is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

(Minority Report.)

Committee Room,
Austin, Texas, April 8, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: We, a minority of your Committee on Insurance, Statistics and History, to whom was referred

House bill No. 1, A bill to be entitled

"An Act to provide for the more efficient regulation and supervision of banks; of deposits or discounts or both of deposit and discount and banking and trust companies in this State, incorporated under and by virtue of the provisions of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas, and known as the State Banking Law, providing additional safeguards for the protection of the depositors and other creditors of such institutions, providing that all institutions shall be mutually liable pro rata within certain limitation for the payment of the liabilities of each such institutions to the guaranteed depositors, and defining the guaranteed deposit and the guaranteed depositors of such institutions, providing for the creation of a State Banking Board and describing its powers and duties; prescribing additional powers and duties of the Commissioner of Insurance and Banking and providing for the issuance by such Commissioner of all charters for such institutions; requiring all such institutions to hereafter hold certificates of authority to transact the banking business; providing for the creation of the State Bank Guaranty Fund and for its maintenance and use in the payment of guaranteed deposits of such institutions; providing for the making good of any impairment of the capital stock of such institutions; prescribing the conditions upon which it shall be the duty of the Commissioner of Insurance and Banking or the State Banking Board to close and take possession of the property and business of such institutions and providing for their liquidation, and for the payments of their liabilities to their guaranteed depositors out of the State Bank Guaranty Fund; providing the amount of capital stock required to be maintained by such institutions in proportion to their deposits; providing for frequent and thorough examination of State banks and other banks subject by law to examination and supervision and for the appointment of the necessary number of examiners for that purpose and providing for their compensation; prescribing the terms upon which State banks may make loans upon the collateral security of their own shares of stock; limiting the indebtedness of State banks; regulating the pledging of their securities as collateral for money borrowed and the making of loans upon the collateral security of shares of stock

in other banking corporations; prescribing the time within which the loans of State banks shall mature; prescribing an oath to be taken by directors of State banks, and requiring reports to be made at regular meetings of the board of loans and discounts made during the preceding month; making it a penal offense for officers or employes of State banks to embezzle, abstract or wilfully misapply its money, funds or securities or to issue evidence of indebtedness or bind such banks for the payment of any indebtedness without the authority of the board of directors or to aid, or abet any such offense, or for an active officer of a State bank to unlawfully borrow any of its funds, or for an officer or director to loan or consent to the loaning of its funds unlawfully to an active officer, or for the Commissioner of Insurance and Banking or any examiner or special agent to fail and refuse to give notice of violations of the criminal provisions of the laws of this State coming to their attention, or for any officer, director, agent or employe of any State bank to knowingly and wilfully do any act, as such, expressly forbidden by law, or to omit to perform any duty imposed by law, or for any officer or director of a State bank to make or concur in or consent to the making of any loan not authorized by law, or for any officer, clerk or agent of any State bank to certify any check before the amount thereof shall have been regularly entered to the credit of the drawer thereof; providing that national banking associations shall avail themselves of certain provisions of this act, and providing for the establishment of savings departments and for their regulation, and generally defining offenses against the banking laws of this State, and prescribing penalties for all such offenses so defined, and declaring an emergency."

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass, and be not printed.

MAYFIELD,
TERRELL of McLennan,
VEALE.

H. B. No. 1. By Cureton et al.

A BILL

To be entitled

An Act to provide for the more effective regulation and supervision of banks of deposit or discount, or both

of deposit and discount and banking and trust companies in this State, incorporated under and by virtue of the provisions of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas, and known as the State Banking Law, providing additional safeguards for the protection of the depositors and other creditors of such institutions, providing that all institutions shall be mutually liable pro rata within certain limitations for the payment of the liabilities of each such institution to its guaranteed depositors, and defining the guaranteed deposits and the guaranteed depositors of such institutions; providing for the creation of a State Banking Board, and describing its powers and duties; prescribing additional powers and duties of the Commissioner of Insurance and Banking, and providing for the issuance by such Commissioner of all charters for such institutions; requiring all such institutions to hereafter hold certificates of authority to transact the banking business; providing for the creation of the State bank guaranty fund, and for its maintenance and use in the payment of guaranteed depositors of such institutions; providing for the making good of any impairment of the capital stock of such institutions; prescribing the conditions upon which it shall be the duty of the Commissioner of Insurance and Banking or the State Banking Board, to close and take possession of the property and business of such institutions, and providing for their liquidation, and for the payment of their liabilities to their guaranteed depositors out of the State bank guaranty fund; providing the amount of capital stock required to be maintained by such institutions in proportion to their deposits; providing for frequent and thorough examination of State banks and other banks subject by law to examination and supervision, and for the appointment of the necessary number of examiners for that purpose, and providing for their compensation; prescribing the terms upon which State banks may make loans upon the collateral security of their own shares of stock; limiting the indebtedness of State banks; regulating the pledging of their securities as collateral for money borrowed, and the making of loans upon the collateral security of shares of stock in other banking corpora-

tions; prescribing the time within which the loans of State banks shall mature; prescribing an oath to be taken by directors of State banks; and requiring reports to be made at regular meetings of the board of loans and discounts made during the preceding month; making it a penal offense for officers or employees of State banks to embezzle, abstract or willfully misapply its money, funds or securities, or to issue evidences of indebtedness or bind such banks for the payment of any indebtedness without the authority of the board of directors, or to aid, or abet, any such offense, or for an active officer of a State bank to unlawfully borrow any of its funds, or for an officer or director to loan or consent to the loaning of its funds unlawfully to an active officer, or for the Commissioner of Insurance and Banking, or any examiner or special agent to fail and refuse to give notice of violations of the criminal provisions of the laws of this State coming to their attention, or for any officer, director, agent or employee of any State bank to knowingly and willfully do any act, as such, expressly forbidden by law, or to omit to perform any duty imposed by law, or for any officer or director of a State bank to make or concur in, or consent to, the making of any loan not authorized by law, or for any officer, clerk, or agent of any State bank to certify any check before the amount thereof shall have been regularly entered to the credit of the drawer thereof; providing that national banking associations shall avail themselves of certain provisions of this act, and providing for the establishment of savings departments and for their regulation, and generally defining offenses against the banking laws of this State, and prescribing penalties for all such offenses so defined, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. On and after the first day of January, 1910, all banks of deposit or discount or of both deposit and discount and banking and trust companies in this State, organized, or that may hereafter be organized, under and by virtue of the provisions of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas, and known as the State Banking Law, shall be liable pro rata in the manner and proportion

and to the extent hereinafter provided for the payment of all the liabilities of each such banking or other corporation to its guaranteed depositors as herein-after defined. All of the classes of banking corporations above referred to shall, for the purposes of this act, be classed and known and hereafter referred to as "State banks."

Sec. 2. All the liabilities of State banks other than owned by them, except debts due by such banks for which they have given collateral or other security, and debts due depositors, or other persons, upon which such State banks or any person for them or on their behalf have directly or indirectly paid or agreed to pay, or have become liable in law to pay, any interest, bonus, commission or other compensation whatever, shall be considered and defined and hereafter referred to as their "guaranteed deposits," and the persons to whom such liabilities are or may become due and payable, shall be considered and defined and hereinafter referred to as their "guaranteed depositors."

Sec. 3. For the purpose of carrying out and enforcing the provisions of this act, there is hereby created the State Banking Board, which shall be composed of the Commissioner of Insurance and Banking, who is hereafter referred to in this act as the Commissioner, the Attorney General and a citizen of this State who shall be appointed by the Governor for this State and who, prior to his appointment, shall have had five (5) years' experience as an active officer of a bank and who shall receive as his compensation as a member of the State Banking Board, the sum of ten (\$10) dollars per day for each day while engaged in active discharge of his duties as a member of said board. Immediately after this act shall take effect said board shall cause to be made by the State bank examiners, who are hereby placed under the direction and control of said board for that purpose, a full and careful examination of the affairs of each and every State bank doing business in this State, for the purpose of ascertaining its financial condition, the character, amount and values of its assets, the extent of its liabilities, the financial responsibility of its stockholders, the moral character, previous occupation, competency and business qualifications of its officers and directors, and such other facts as said board may deem advisable and may direct; and said board shall require a full and detailed report of such exami-

nation of each such corporation to be made by the State bank examiner making such examination, under his oath of office, such report to be filed with said board not later than the first day of December, 1909. It shall be the duty of the State Banking Board, from time to time after this act shall take effect, and prior to January 1, 1910, as the reports of examinations provided for in this section shall be filed with it, to consider and pass upon such reports, and to determine therefrom, and from such additional facts as may be submitted for its consideration or as it may ascertain from other investigation, whether such State bank is solvent and its capital stock unimpaired, and whether its officers and directors are of good moral character, competent and possess the necessary qualifications for properly discharging the duties incumbent upon them as such officers or directors and whether it is entitled under the laws of this State to continue to transact a banking business. Said board shall keep a record of its proceedings and findings relative to each bank considered and passed upon, and shall file a certified copy thereof, signed by each member of said board, in the office of the Commissioner, which shall be by him duly recorded in a book to be kept for that purpose. The said board shall not certify its approval of any State bank as being entitled to continue to transact a banking business or its approval of the chartering of any State bank, as provided in Section 5 of this act, unless it shall find the officers and directors of such bank to be of good moral character, competent and possessing the necessary qualifications to properly discharge the duties incumbent or to be incumbent upon them, as such officers or directors.

Sec. 4. It shall be the duty of the Commissioner to issue to each State bank which the State Banking Board shall have approved and certified to him, as provided in the preceding section, as being entitled to continue to transact a banking business, a certificate of authority in such form as the State Banking Board may approve, to be signed by him under his official seal, certifying that such State bank is authorized, under the laws of this State, to continue to engage in the banking business. The Commissioner shall close all State banks which the State Banking Board shall dispose, and shall determine not to be entitled, under the laws of this State, to continue to transact the banking business and shall proceed respecting the

same in the manner provided by law with respect to insolvent banks, unless such State bank shall go into voluntary liquidation.

Sec. 5. Section 2 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature is hereby amended so as to hereafter read as follows:

"Section 2. The articles of association shall set out:

"(1) The corporate name of the proposed corporation, which shall not be the name of any corporation heretofore incorporated in this State for similar purposes, or any imitation of such name, and which shall include as a part thereof either the word 'bank' or 'banking.'

"(3) The amount of the capital stock of the corporation, which shall be divided into shares of \$100 each; that the same has been bona fide subscribed and actually paid up in lawful money of the United States, and is in the custody of the person named as the first board of directors or managers.

"(4) The name and place of residence of the several shareholders, and the number of shares subscribed by each.

"(5) The number of directors or managers and the names of those agreed upon for the first year.

"(6) The number of years the corporation is to continue, which in no case shall exceed fifty years.

"Such articles shall be signed and acknowledged by the parties thereto, shall be filed in the office of the Commissioner of Insurance and Banking, and when so filed shall be immediately submitted to the Attorney General for his approval, and if found by him to be in accordance with the law he shall so certify and return the same to the Commissioner of Insurance and Banking, who shall record the same in a book to be kept for that purpose, and shall make a certified copy thereof under his hand and seal, and shall immediately deliver such certified copy to a State bank examiner, by whom he shall cause to be made an examination for the purpose of ascertaining whether the requisite capital stock of such corporation has been fully paid up as required by the Constitution and laws of this State. No certificate of incorporation under this act shall be valid unless at the time the articles of association were signed and acknowledged the capital stock therein prescribed shall have been bona fide subscribed and paid up in lawful money of the United States. If, upon such examination it shall be found that the Constitution and laws have been fully

complied with, the person making such examination shall deliver to the president or cashier of said corporation the certified copy of its articles of incorporation, and shall take therefor the receipt of such corporation and of the person to whom the same shall be delivered. Upon the delivery of such certified copy and the execution of the receipt therefor and upon the filing for record of such certified copy in the office of the county clerk of the county in which the corporation is to be located the same shall become valid and effective as to the charter of said corporation, which shall thereupon be allowed to open its doors and engage in business as a State bank. It shall be the duty of the examiner to immediately make a report of such examination under his oath of office to the State Banking Board, whose duty it shall be to forthwith consider and act upon the same, and to determine therefrom and from such additional facts as may be submitted for its consideration, or as it may ascertain from other investigation, whether such corporation is solvent and its capital stock unimpaired, and whether its officers and directors are of good moral character, competent and possess the necessary qualifications for properly discharging the duties incumbent upon them as such officers or directors, and whether it is entitled under the laws of this State to transact a banking business. If the State Banking Board shall have approved the chartering of such bank, upon receipt of its certificate the Commissioner shall issue to such corporation the certificate of authority above provided for. In case the State Banking Board shall disapprove the report of the examiner, and refuse to certify that such corporation is entitled to a certificate of authority, it shall be the duty of the Commissioner to immediately close the office of such corporation, unless it shall go into voluntary liquidation, and to proceed in the manner provided by law with respect to insolvent banks. All amendments to the charters of all banking corporations heretofore or hereafter formed shall be filed in the office of the Commissioner of Insurance and Banking and approved by the Attorney General and recorded by said Commissioner, when so approved, in the same manner as original charters."

Sec. 6. Section 10 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature is hereby amended so as to hereafter read as follows:

"Section 10. The articles of agreement shall be signed and acknowledged by the parties thereto and recorded in the office of the Commissioner of Insurance and Banking, who shall submit the same to the Attorney General for his approval, and if found by him to be in accordance with the law, he shall so certify and return the same to said Commissioner, who shall record the same in a book to be kept for that purpose, and make a certified copy thereof under his hand and seal, and thereafter the same steps shall be taken and the same course pursued as is provided by law with respect to the incorporation of banks of deposit or discount, or both of deposit and discount."

Sec. 7. Section 5 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature of the State of Texas is hereby amended so as to hereafter read as follows:

"Section 5. That hereafter the capital stock of all banking corporations, which shall be fully paid up, shall not be less than \$10,000, if the business is to be transacted in towns or cities having less than 750 inhabitants, nor less than \$25,000 if the business is to be transacted in towns or cities having 750 or more and less than 3000 inhabitants; nor less than \$50,000, if the business is to be transacted in towns or cities having 3000 or more and less than 6000 inhabitants; nor less than \$100,000, if the business is to be transacted in towns or cities having 6000 inhabitants or more. Provided, that a banking corporation may be formed with a capital, with not less than \$50,000, having power to transact business in any city or town at a point, designated in its charter, not less than one mile removed from the place of business, at the time such corporation is formed, of any banking corporation organized under the laws of Texas or those of the United States. The population of all towns and cities for the purpose of fixing the minimum capital stock of banks under this act shall be ascertained by the Commissioner of Insurance and Banking from such affidavits as may be submitted to him or such proof as he may obtain upon investigation."

Sec. 8. All State banks transacting business in this State shall be required, on and after the first day of January, 1910, to hold a certificate of authority to transact a banking business issued by the Commissioner, in compliance with the provisions of this act, and to keep

the same conspicuously posted at all times in the banking house where such business is transacted. Any person or persons who shall, in any capacity, transact, or hold themselves out as transacting the business of banking for or on behalf of any State bank or banking and trust company, after the first day of January, 1910, without such bank or banking and trust company shall hold a certificate of authority as herein provided for, except in cases where such certificates shall not yet have been issued to newly incorporated banks as herein provided for, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense, each day being considered a separate offense, by a fine of not less than \$500 and not exceeding \$1000, or by imprisonment in the county jail for not less than one nor more than twelve months, or by both such fine and imprisonment.

Sec. 9. The Commissioner shall, during the month of November, 1909, and of each calendar year thereafter, require the cashier of each State bank, which has been so organized and doing business for one year prior to November 1 of each such calendar year, to file with him a sworn statement of the average daily deposits of such bank for said year ending November 1, and he shall require the cashiers of all other State banks to each file with him, during such month of November, a sworn statement of the total amount of the capital, surplus and undivided profits of their respective banks, as of said first day of November. Immediately after the first day of December, 1909, the State Banking Board shall, for the purpose of creating a State bank guaranty fund, levy against each State bank, which it shall have approved as being entitled to continue in the banking business, an assessment of 1 per cent of its average daily deposits for the year ending on the first day of November, 1909, if it shall have transacted business for one year prior to said date, or an assessment of 3 per cent of its total capital, surplus and undivided profits as of the first day of November, 1909, if it shall not have transacted business for one year prior to that date; provided, that if said assessment shall not in the aggregate provide a fund of at least five hundred thousand (\$500,000) dollars, then the same shall be proportionately increased to such percentage of the average daily

deposits and of the capital, surplus and undivided profits, respectively, as will provide a fund of that amount. Immediately after the first day of December of each year after 1909, the State Banking Board shall relevy and readjust the assessment above provided for in the same manner except that they shall each succeeding year increase the percentage of the assessment upon the average daily deposits of the banks to which such assessment is applicable by one-fourth of one per cent, and they shall increase the percentage of assessment upon the capital, surplus and undivided profits of banks to which such assessment is applicable by three-fourths of one per cent until such time as the total amount of said State bank guaranty fund shall equal 5 per cent of the average daily deposits of all of the State banks which have been in business for one year added to 15 per cent of the capital, surplus and undivided profits of all other State banks. Each State bank shall pay such assessments by crediting the State bank guaranty fund with the amount thereof upon its books as of date January 1, next, after the said assessment is made, as a demand deposit, subject to check, upon the order of the State Banking Board, and shall, prior to said date, forward to the Commissioner proper evidence of such credit, and each State bank shall charge the amount of each such assessment so credited to the State bank guaranty fund upon its books to "interest in State bank guaranty fund," and shall be entitled to treat in its statements of condition and otherwise the amount of its said interest in said fund, as shown by its books as a portion of its assets; provided, that the amount of its said interest in said fund shall not include any of the amounts paid out upon general checks drawn by order of the State Banking Board. The relevy and readjustment of the assessment herein provided for shall be made on such a basis as will provide a State bank guaranty fund as of January 1 of each succeeding year equal to the percentages herein prescribed of the average annual deposits and capital, surplus and undivided profits, respectively, for each succeeding year until the maximum percentage herein prescribed shall be attained and thereafter such relevy and readjustment shall be made each year upon such a basis as will provide a fund upon January 1 of each year amounting to 5 per cent of the annual

deposits and 15 per cent of the capital, surplus and undivided profits as hereinabove provided for.

If, in the making of such re-levy and readjustment, it becomes necessary to reduce the amount of the assessment of any State bank, said board shall order a check, countersigned by some other members of said board designated for that purpose, drawn upon said State bank in favor of itself, dated January 1 next thereafter, for the amount of such reduction, which the Commissioner shall forthwith transmit to such State bank, and if it shall be necessary to increase the assessment of any State bank, it shall direct the Commissioner to notify such State bank of the amount of such increase, and require that it credit the State bank guaranty fund with the amount of such increase, as of date of the first day of January thereafter, and send to the Commissioner proper evidence of such credit, prior to said date. Any State bank incorporated after the first day of January, 1910, shall, before it shall be issued a certificate of authority to transact a banking business, credit the State guaranty fund upon its books, as hereinbefore provided, with an amount equal to three per cent of its capital stock and paid in surplus, if any, and furnish the Commissioner with proper evidence of such credit. Whenever the amount deposited to the credit of the State bank guaranty fund on the books of the various State banks shall at any time be reduced by the payment of checks drawn upon them by order of the State Banking Board, for the purpose of paying the guaranteed deposits of any State bank, as hereinafter provided for, below the amount of such credit as of the first day of January next preceeding, it shall be the duty of the State Banking Board to immediately levy an assessment based upon the average daily deposits, and upon the capital, surplus and undivided profits, as shown by the sworn statements filed in the preceeding November, as herein provided, sufficient to make good such reduction; provided, that the total assessments made for the purpose of making good such reduction shall not exceed two per cent of such average daily deposits for any one calendar year exclusive of the one-fourth of one per cent required to be placed to the credit of the bank guaranty fund each year as heretofore stated, and the various banks shall immediately furnish the Commissioner proper evidence of such additional credit, but this provision shall not apply to special checks drawn

only on certain banks by order of said board, as hereinbefore provided.

It shall be the duty of the Commissioner to keep a strict account with each State bank in which any portion of the State bank guaranty fund is deposited in a book to be kept for that purpose, showing all amounts credited to said fund, in each bank, and all checks drawn against the same, and it shall be his duty to immediately notify any such bank of any discrepancy between the status of its account as shown upon his books and any statement made by such bank or any report of its examination, and he shall also call such discrepancy to the attention of the State Banking Board.

Whenever any State bank shall pay off and discharge all its liabilities to its creditors and go into liquidation for the purpose of voluntarily winding up its affairs and surrender to the Commissioner its certificate of authority, it shall be the duty of the State Banking Board upon a showing of these facts to order the Commissioner to draw a check upon such State bank in its favor for the amount of the State bank guaranty fund on deposit therewith, which shall be thereby repaid to it upon such liquidation, provided nothing in this act shall be construed so as to guarantee interest bearing deposits in such bank.

Sec. 10. Whenever the Commissioner shall have reason to believe that the capital stock of any State bank is reduced by impairment or otherwise below the amount required by law or by its certificate of authority, or articles of incorporation, he shall present the matter to the State Banking Board for its consideration, and if said Board shall determine thereupon that the capital stock of such State bank is impaired to the extent of not more than twenty-five per cent thereof, the Commissioner shall require such State bank to make good the deficiency within sixty days after the date of such requisition. If said Board shall determine that the impairment exceeds twenty-five per cent of the amount of the capital stock, the Commissioner shall require that such State bank forthwith reduce the amount of such impairment to less than twenty-five per cent and to make good the whole impairment within sixty days from the date of such requisition. The Commissioner may examine or cause to be examined any such State bank to ascertain the amount of such impairment and whether the deficiency has been made good, as required by him.

The directors of every such State bank upon which such requisition shall have been made shall give notice of such requisition to each stockholder of the corporation and of the amount of the assessment which he must pay for the purpose of making good such deficiency by a written or printed notice mailed to such stockholder at his place of residence, or served personally upon him. If any stockholder shall refuse or neglect to pay the assessment specified in such notice within the time provided by the requisition of the Commissioner, the directors shall have the right to sell to the highest bidder at public auction the stock of such stockholder; after giving previous notice of such sale for two weeks in a newspaper of general circulation published in the county where the principal office of such corporation is located; or such stock may be sold at private sale and without such published notice; provided, however, that before making private sale thereof an offer in writing to purchase such stock shall be obtained and a copy thereof served upon the owner of record of the stock caused to be sold either personally or by mailing a copy of such offer to such owner at his place of residence or address furnished by him to such State bank; and if after service of such offer such owner shall still refuse or neglect to pay such assessment within two weeks from the time of service of such offer, the said directors may accept such offer and sell such stock to the person or persons making such offer, or to any other person or persons making larger offer than the amount named in the offer submitted to such stockholder; but such stock shall in no event be sold for a smaller sum than the valuation put on it by the Commissioner in his determination and certificate, which valuation shall not be less than the amount of the assessment called for and the necessary costs of sale. Out of the avails of the stock sold the directors shall pay the necessary costs of sale and the amount of the assessment called for thereon. The balance, if any, shall be paid to the person or persons whose stock has been thus sold. The sale of stock as herein provided shall effect the cancellation of the outstanding certificate or certificates evidencing the stock so sold, and shall make the same null and void, and a new certificate or new certificates shall be issued to the purchaser or purchasers of said stock. If it shall appear to the Commissioner that any State bank has violated its charter or any law binding upon it, he may, by an order under his

hand and official seal, addressed to such State bank, direct the discontinuance of such violation; or, if it shall appear to the Commissioner that any such State bank is conducting its business in an unsafe or unauthorized manner, he may in like manner direct the discontinuance of such unsafe or unauthorized practices. Such order shall require such State bank to show cause before the State Banking Board at a time and place to be fixed by the Commissioner why said order should not be observed.

Sec. 11. If the capital stock of any State bank shall be impaired and such impairment is not made good as required by law, or if any such State bank shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be examined upon oath touching the concerns of such State bank, or if it shall violate its charter, or any law of the State, or if such State bank shall suspend payment of its obligations, or if such State bank shall conduct its business in an unsafe or unauthorized manner, or if from any examiner's or other report provided for by law, the Commissioner shall conclude that such State bank is in an unsafe or unsound condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, and the Commissioner shall communicate the facts to the Attorney General, an action to procure a judgment dissolving such corporation and forfeiting its charter may be maintained.

Sec. 12. Whenever it shall appear to the Commissioner that any State bank has violated its charter or any law of the State, or is conducting its business in an unsafe or unauthorized manner, or if any such State bank shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be examined upon oath touching the concern of any such State bank, or to answer under oath any interrogatories touching such concern, sent him by the Commissioner through the mails with the requests for such answer, within ten days after the same shall have been mailed to him at his address by registered letter, or if any such State bank shall suspend payment of its obligations, or if from any examination or report provided for or authorized by law, the examiner shall have reason to conclude that such State bank is in an unsound or unsafe condition to transact the business for which it is organized or that

it is unsafe or inexpedient for it to continue business, or if any such State bank shall neglect or refuse to observe an order or requisition of the Commissioner to reduce or make good the impairment in its capital stock as required by law, the Commissioner may forthwith take possession of the property and business of such State bank and retain such possession until such State bank shall resume business, or its affairs finally liquidated, as herein provided. On taking possession of the property and business of any such State bank, the Commissioner shall forthwith give notice of such fact to any and all banks, trust companies, associations and individuals holding or in possession of any assets of any such State bank. No bank, trust company, association or individual knowing of such taking possession by the Commissioner, or notified as aforesaid, shall have a lien or charge for any payment, advance or clearance thereafter made, or liability thereafter incurred against any of the assets of the State bank whose property and business the Commissioner shall have taken possession as aforesaid. Such State banks may, with the consent of the State Banking Board, resume business upon such condition as may be approved by it, which permission shall be evidenced by a written statement to the effect of the Commissioner. Upon taking possession of the property and business of such State bank, the Commissioner is authorized to collect moneys due to such corporation, and do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof as hereinafter provided. The Commissioner shall collect all debts due and claims belonging to such State bank, and upon the order of the district court, if in session, or the judge thereof if in vacation, of the county in which it was located and transacting business, may sell or compound all bad or doubtful debts, and on like order may sell the real or personal property of such State bank on such terms as the court shall direct; and may, if necessary to pay the debts of such State bank, enforce the individual liability of the stockholders. The Commissioner may, under his hand and official seal, appoint one or more special agents to assist him in the duty of liquidation and distribution, the certificate of appointment to be filed in the office of the Commissioner and a certified copy in the office of the clerk of the county court in which such State

bank was located and transacted business. The Commissioner may, from time to time, authorize a special agent to perform such duties connected with such liquidation and distribution as the said Commissioner may deem proper. The Commissioner may employ such counsel and procure such expert assistance and advice as may be necessary in the liquidation and distribution of the assets of such State bank, and may retain such of the officers or employees of such State bank as he may deem necessary. The Commissioner shall require from a special agent and from such assistants such security for the faithful discharge of their duties as he may deem proper. The Commissioner shall cause notice to be given by advertisement in such newspapers as he may direct, weekly, for three consecutive months, calling on all persons who may have claims against such State bank to present the same to the Commissioner and make legal proof thereof, at a place and within a time not earlier than the last day of publication to be therein specified, which notice shall contain a statement, in larger type than that in which the body of such notice is printed, specifically stating that all such claims of guaranteed deposits must be presented and legal proof thereof made at the place designated within forty-five days after the date which the property and business of such State bank was taken possession of by the Commissioner, and that all claims of guaranteed depositors presented after the expiration of forty-five days shall not be entitled to payment of their claims or any portion thereof out of the State bank guaranty fund. The Commissioner shall mail a similar notice to all persons whose names appear as creditors upon the books of the State bank. If the Commissioner doubts the justice and validity of any claim, he may reject the same and serve notice of such rejection upon the claimant, either by mail or personally. An affidavit of the service of such notice, which shall be prima facie evidence thereof, shall be filed with the Commissioner. The action upon a claim so rejected must be brought within six months after such service. Claims presented after the expiration of the time fixed in the notice to the creditors shall be entitled to share in the distribution only to the extent of the assets in the hands of the Commissioner equitably applicable thereto. Upon taking possession of the property and assets of such State bank, the

Commissioner shall make an inventory of the assets of such State bank in duplicate, one to be filed in the office of the Commissioner, and one in the office of the clerk of the county in which such State bank was located and transacting business; upon the expiration of the time fixed for the presentation of claims, the Commissioner shall make in duplicate a full and complete list of the claims presented, including and specifying such claims as have been rejected by him, and showing fully all claims and amounts paid to guaranteed depositors out of the State bank guaranty fund, and the amount to which said fund is entitled by reason of its subrogation to the rights of such guaranteed depositors so paid, and all amounts held by him on account of claims of guaranteed depositors, which have been rejected or are in dispute, one to be filed in the office of the Commissioner and one in the office of the clerk of the county court of the county in which such State bank was located and transacted business. Such inventory and list of claims shall be open at all reasonable times to inspection. All compensation of special agents, counsel and other employes and assistants, and all expenses of supervision and liquidation shall be fixed by the Commissioner, subject to the approval of the district court, if in session, or the judge thereof, if in vacation, of the district in which such State bank was located and transacting business, or notice to such State bank; providing that the compensation of such special agents shall always be the same as is provided by law for State bank examiners, and shall, upon the certificate of the Commissioner, be paid out of the fund of such State banks in the hands of the Commissioner. The moneys collected by the Commissioner shall be from time to time deposited in one or more State banks, and, in case of the suspension or insolvency of the depository, such deposits shall be preferred before all other deposits. At any time after the expiration of the date fixed for the presentation of claims the Commissioner may, out of the funds remaining in his hands, after the payment of expenses, declare one or more dividends, and after the expiration of one year from the first publication of a notice to creditors, he may declare a final dividend, such dividends to be paid to such person and in such manner, and upon such notice as may be directed by the district court, if in session, or the judge thereof, if in vacation, of the district in which such State bank was

located and transacted business. In the declaration and payment of all such dividends, the State bank guaranty fund shall be entitled to receive as its dividend such portions of the amounts due and payable to guaranteed depositors as shall have been paid to them out of the State bank guaranty fund, together with six per cent interest thereon from the date or dates upon which checks were drawn upon all State banks as hereinafter provided to provide for the payment of the guaranteed deposits of such State banks, and the Commissioner shall forthwith distribute such dividends to the State banks upon which checks were drawn for such payment of guaranteed depositors in proportion to the amounts of such checks respectively. Objections to any claim not rejected by the Commissioner may be made by any party interested by filing a copy of such objections with the Commissioner, who shall present the same to the district court, if in session, or the judge thereof, if in vacation, at the time of the next application to declare a dividend. The court may make proper provision for improved or unclaimed deposits. Whenever any such State bank, of whose property and business the Commissioner has taken possession as aforesaid, deems itself aggrieved thereby, it may, at any time within ten days after taking such possession, apply to the district court, if in session, or the judge thereof, if in vacation, of the district in which such bank is located and transacting business, to enjoin further proceedings, and said court, if in session, or the judge thereof, if in vacation, after citing the Commissioner to show cause why further proceedings should not be enjoined and hearing the allegations and proofs of the parties and determining the facts may, upon the merits, dismiss such application or enjoin the Commissioner from further proceedings and directing him to surrender such business and property to such State bank. Whenever the Commissioner shall have paid to each and every depositor and creditor of such State bank (not including stockholders), whose claim or claims as such creditor or depositor shall have been duly proven and allowed, the full amount of such claims and shall have repaid to the State bank guaranty fund all amounts paid out of it to guaranteed depositors of such State bank, together with six per cent interest thereon from the date when the checks to provide for such payment were drawn, and shall have made proper provision for unclaimed and unpaid deposits or dividends, and shall have paid all the ex-

penses of the liquidation, the Commissioner shall call a meeting of the stockholders of such State bank by giving notice thereof for thirty days in one or more newspapers in the county where such State bank was located and transacted business. At such meeting the stockholders shall determine whether the Commissioner shall be continued as liquidator, and shall wind up the affairs of such State bank, or whether an agent or agents shall be elected for that purpose, and in so determining, the said stockholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and a majority of the stock shall be necessary to a determination. In case it is determined to continue the liquidation under the Commissioner, he shall complete the liquidation of such corporation, and after paying the expenses thereof shall distribute the proceeds among the stockholders in proportion to the several holdings of stock in such manner and upon such notice as may be directed by the district court. In case it is determined to appoint an agent or agents to liquidate, the stockholders shall thereupon select such agent or agents by ballot, a majority of the stock present and voting, in person or by proxy, being necessary for a choice. Such agent or agents shall execute and file with the Commissioner a bond, in such amount, with such sureties and in such form as shall be approved by the Commissioner, conditioned for the faithful performance of all the duties of his or their trust, and thereupon the Commissioner shall transfer and deliver to such agent, or agents, all the undivided and unclaimed or other assets of such State bank then remaining in his hands; and upon such transfer and delivery the said Commissioner shall be discharged from any and all further liability to such State bank and its creditors and stockholders. Such agent or agents shall convert the assets coming into his or their possession into cash, and shall account for and make distribution of the property of said State bank, as is herein provided in the case of distribution by the Commissioner, except that the expenses thereof shall be subject to the direction and control of the district court, if in session, or the judge thereof, if in vacation, of the district in which such State bank was located and transacted business. In case of the death, removal, or refusal to act, of such agent or agents, the stockholders, on the same notice, to be given by

the Commissioner, upon proof of such death, removal, or refusal to act being filed with him, and by the same vote hereinbefore provided, may select a successor, and shall have the same power and be subject to the same liabilities and duties as the agent originally elected. Dividends and unclaimed deposits remaining unpaid in the hands of the Commissioner for six months after the order for final distribution, shall be by him deposited in some State bank to be designated by the State Banking Board to the credit of the Commissioner, in his name of office, in trust, for the several depositors with, and creditors of, the liquidated State bank from which they were received, who were entitled thereto. The Commissioner shall show in his official report the names of the State banks so taken possession of and liquidated, and the amounts of unclaimed and unpaid deposits or dividends, with respect to each of them, respectively. The Commissioner shall pay over the moneys so held by him to the persons respectively entitled thereto, upon the order of the State Banking Board, who shall direct such payment to such persons upon being furnished satisfactory evidence of their right to the same. In cases of doubt of conflicting claims, the State Banking Board may require an order of the district court, if in session, or the judge thereof, if in vacation, authorizing and directing the payment thereof. The State Banking Board may apply the interest earned by the moneys held by the Commissioner, or may authorize him to apply the same toward defraying the expenses incurred in the payment and distribution of such unclaimed deposits or dividends to the depositors and creditors entitled to receive the same, and the Commissioner shall include in his official report a statement of the amount of interest earned by such unclaimed dividends. Any State bank may, at any time, place its affairs and assets under the control of the Commissioner by posting a notice on its front door, as follows: "This institution is in the hands of the Commissioner of Insurance and Banking of the State of Texas." The posting of this notice or of the same notice by the Commissioner at any time when he shall have taken possession of the property and business of a State bank, shall be sufficient to place all its assets and property of whatever nature in the possession of the Commissioner

and shall operate as a bar to any attachment proceedings whatever.

Sec. 13. Section 40 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature is hereby repealed.

Sec. 14. Whenever any State bank shall voluntarily place itself in the hands of the Commissioner, or whenever the Commissioner shall take possession of the property and business of any State bank, in addition to the other duties required of him by law, he shall immediately cause to be made a thorough and complete examination of the affairs of such State bank by a State bank examiner, and shall require a report of such examination to be made to him by the examiner making the same, under his oath of office, which shall be without delay submitted to the State Banking Board for its consideration. Such reports shall show the amount of the liabilities of such State bank to guaranteed depositors as defined by this act, as shown by its books, and also the amount of any such liabilities of which the examiner may have received information not shown by such books and all its other liabilities, and also its total cash and other resources and the probable amount that can be realized out of the collection of its debts and the probable time within which the same may be realized, the responsibility of its stockholders, and such other facts as the Commissioner of the State Banking Board may direct. When the State Banking Board shall have considered such report it shall either make an order directing the entire amount of the guaranteed deposits as herein defined of such State bank to be paid by the Commissioner, personally or through his special agent, in cash, upon satisfactory proof of the indebtedness due in each of such guaranteed depositors being made, or it may make an order directing that the Commissioner, either personally or through his special agent, shall issue to such guaranteed depositors, upon satisfactory proof being made of the amount due him by said State bank as a guaranteed deposit, a certificate (or certificate as hereinafter provided) certifying that the holder is a guaranteed depositor in such State bank, and as such is entitled to be paid out of the State bank guaranty fund, the amount stated in such certificate and that the said amount is due and will be paid over to the owner or holder of such certificate, to-

gether with 6 per cent interest thereon, sixty days after the date of the closing of such State banks by the Commissioner, out of said State guaranty fund (provided, that if prior to the expiration of such period of sixty days said State bank shall be lawfully permitted to resume business, then and in that event such certificate shall be payable and redeemable in cash upon presentation to said State bank by it instead of by the Commissioner out of said State bank guaranty fund). Such certificates shall be in form prescribed and approved by the State Banking Board, and shall be signed or countersigned by the Commissioner or such other member of said Board as it shall direct, and shall be so devised and designated as to guard against alteration or misuse. Such certificates may, at the option of the guaranteed depositor entitled to receive the same, be issued in such reasonable denomination as he may desire; provided, that the total amount of such certificates so issued to each guaranteed depositor shall equal the amount due him as a guaranteed depositor. The amount which shall be paid to any guaranteed depositor in any State bank on account of his guaranteed deposit, a portion or all of which shall be payable out of the State bank guaranty fund, shall be the net amount derived by deducting from the total amount of the liability of said State bank to him, as a guaranteed depositor, the amount of his direct and indirect indebtedness and liability due or to become due, if any, to said State bank.

Sec. 15. Should the State bank guaranty fund become depleted, then the State Banking Board, upon the approved claims of all guaranteed depositors, shall issue certificates, which, at the option of the depositors entitled to receive the same, may be issued in such reasonable denominations as he may desire, provided that the total of such certificates shall equal the total amount due such guaranteed depositor, which certificates shall be numbered consecutively, and shall bear interest at the rate of 6 per cent per annum, and shall be payable, principal and interest, out of the State bank guaranty fund upon call of the State Banking Board, as soon as a sufficient amount shall have been accumulated under the terms and provisions of this act. The Commissioner shall keep a record of the issuance and number of such certificates, and the payment of the same shall be in accordance

with the numbers of such certificates, as shown by the record in the office of the Commissioner.

Sec. 16. When any State bank shall voluntarily place itself in the hands of the Commissioner, or when he shall take possession of the property and business of any State bank, he shall immediately, after the State Banking Board shall have passed upon the examiner's report and determined and directed how the guaranteed depositors shall be paid, cause a written notice to be sent to each and every guaranteed depositor, as shown by the books of said State bank, informing him that his claims as a guaranteed depositor against said State bank must be presented and proved up for payment not later than forty-five days after the date upon which the Commissioner took possession of said State bank, which notice shall advise such guaranteed depositor whether his claim is to be paid in cash or in certificates as herein provided and shall inform him that unless his claim be proven up within forty-five days after the date upon which the Commissioner took possession of said bank, the same will not be payable in any event out of the State bank guaranty fund.

Sec. 17. If the State Banking Board shall make an order directing that the guaranteed depositors in a closed State bank shall be paid in cash, it shall immediately order the Commissioner to draw checks, countersigned by some other members of said Board designated for such purpose, which shall be known and marked as "special checks", on such of the State banks and for such portions of the amount of the State bank guaranty fund on deposit therewith, respectively, as it may determine and direct, for amounts sufficient in the aggregate to pay in full the amount due to the guaranteed depositors of said State banks. The State Banking Board shall have the right to order other additional special checks drawn as above provided in case they shall find that the amount originally estimated will prove insufficient to pay all guaranteed depositors. Such special checks shall be made payable to the order of some State bank, and shall be deposited by the Commissioner in such bank as a special deposit for the purpose of paying the guaranteed depositors in the State bank of which he shall take possession, and shall be subject to his check for that use and purpose. The Commissioner may, if so directed by the State Banking Board,

draw the sums so deposited in cash upon checks made payable to himself for the purpose of paying in cash the guaranteed depositors of said closed State bank. With the fund so provided, the Commissioner shall immediately proceed, either personally or through his special agents, to pay all claims of guaranteed depositors as they may be presented and proven up, taking receipts therefor in such form as may be prescribed by the State Banking Board. At the expiration of forty-five days after the Commissioner shall have taken possession of the property and business of any State bank whose guaranteed depositors he shall have paid in cash he shall make report to the State Banking Board of the total amount of guaranteed deposits of such institution and of the amount of such guaranteed deposits paid by him, and to whom paid and of the amount of claims presented by guaranteed depositors which he has rejected and disallowed, and of any amount of cash he has on hand on account of such claims, and of any amount which he may have paid or contracted to pay out of said State bank guaranty fund in connection with the expenses incident to the payment of such guaranteed deposits, and of the amount remaining in his hands or on special deposit in his name out of the funds provided by special checks for the payment of the guaranteed depositors of such State bank, and of the amount of money in his hands belonging to said closed State bank which may be properly paid into the State bank guaranty fund on account of the guaranteed deposits paid out of such fund. Such report shall be accompanied by proper vouchers for all expenditures so made by the Commissioner, or his special agent. The State Banking Board shall thereupon consider such report, and carefully audit the same in connection with the vouchers submitted therewith, and if it approve the same it shall order the Commissioner to draw checks, countersigned by some other members of said Board designated for that purpose, upon all State banks other than those upon whom such special checks were drawn for their respective proportionate amounts of such sum as may be necessary in addition to such amount as may remain unexpended in the hands of the Commissioner out of proceeds of such special checks, and such amount belonging to said closed bank as may be in his hands, which is due and payable, as aforesaid,

to the State bank guaranty fund to repay the amounts drawn by such special checks. Each of the checks so drawn shall be for that proportion of such sum which the amount of the State bank guaranty fund on deposit in each such State bank bears to the total amount of said State bank guaranty fund and such checks shall be payable to the order of some State bank in which there shall be deposited by the Commissioner to his credit as a special deposit, and against such special deposit shall immediately draw his check in favor of each of the State banks upon whom the special checks were drawn for the difference between the amount of such special checks drawn upon each bank and its proportionate amount of the cash raised upon all of such special checks so drawn, and he shall immediately transmit the same to such State banks upon whom such special checks were drawn in repayment of the amount advanced by them over and above the amount proportionately due by them.

Sec. 18. If the State Banking Board shall direct that the guaranteed depositors of any State bank of the business and property of which the Commissioner shall take possession shall be paid in certificates, as provided in this act, the Commissioner, personally, or through his special agent, shall issue certificates as provided herein to each guaranteed depositor as his claim may be presented and proved up, and at the expiration of forty-five days after he shall have taken possession of such State bank, he shall report to the State Banking Board the total amount of the guaranteed deposits of such State bank, claims for which have been proven up and allowed and paid in such certificates and of the amount of cash in his hands belonging to said State bank, which is due and payable to the State bank guaranty fund, or can properly be applied to the redemption of such certificates so issued. It shall be the duty of the State Banking Board to consider said report and to determine therefrom the amount necessary to draw from the State bank guaranty fund to redeem the certificates issued and pay the interest accrued thereon, and to pay the expenses of handling and administering the affairs of said State bank properly payable out of said fund, and to direct the Commissioner to draw checks, countersigned by some other members of said board designated for that purpose, upon each State bank for the proportion of

said amount which the amount of the State bank guaranty fund on deposit in such State bank bears to the total amount of said State bank guaranty fund. Such checks shall be payable to the order of some State bank and shall be deposited together with the funds in the hands of the Commissioner belonging to such closed State bank, due and payable to the State bank guaranty fund, in some State bank, to his credit as a special deposit for the purpose of redeeming such certificates; and the Commissioner shall immediately upon the expiration of sixty days after the date upon which he took charge of said bank, or if the State bank guaranty fund is depleted, upon call of the State Banking Board, pay the certificates theretofore issued by him or his special agent, as the same shall be presented for payment, together with interest thereon at the rate of six per cent per annum for said time, in checks drawn against such special deposit, or at the option of the holder in cash. If any State bank of the business and property of which the Commissioner shall have taken charge shall hereafter resume business by order of the State Banking Board, within less than sixty days after the date upon which the Commissioner so took charge, in that event any certificates that may have been issued by the Commissioner in payment of its guaranteed depositors shall be redeemed upon the re-opening of said State bank by it in cash upon their presentation. The Commissioner, within ninety days after he shall have taken possession of such bank, shall make a full report to the State Banking Board, showing the amounts collected and disbursed by him in the payment of guaranteed depositors, accompanied by proper vouchers for all disbursements, and showing all amounts remaining in his hands and on what account the same is held, which report shall be carefully audited by the State Banking Board, in connection with the vouchers submitted therewith. A copy of such report shall be recorded in the office of the Commissioner, and a certified copy shall be recorded in the office of the county clerk of the county where such State bank was located and transacted business, and a printed copy shall be mailed by the Commissioner to each State bank in the State.

Sec. 19. If the Commissioner, or his special agent, shall disallow or reject any claim presented by a guaranteed depositor, he shall nevertheless include the amount of such disallowed or rejected

claim in the amount for the payment of which provision is to be made out of State bank guaranty fund, and like provisions shall be made for such claim as for those duly allowed and paid, but the Commissioner shall retain in his hands such an amount pending the final settlement and adjudication of such rejected or disputed claim, and shall apply the same in payment thereof, if it shall be found that such State bank was legally liable therefor, and shall equitably distribute the same to the various banks in which the State bank guaranty fund is deposited if it shall be finally determined that such State bank is not so liable.

Sec. 20. Any deposit made by the Commissioner, as provided by this act in any State bank, for the purpose of providing for the payment of guaranteed depositors, whether of special checks or checks drawn upon all banks in which the State bank guaranty fund may be deposited or otherwise, and all deposits of any portion of the State bank guaranty fund originally credited thereto in any State bank, as provided by this act, shall be preferred before all other deposits in case of the insolvency or suspension of the depository.

Sec. 21. If from the sworn statement of the average daily deposits of any bank for the year ending on the first day of November, 1909, or of any subsequent year, filed with the Commissioner as provided for in Section 7 of this act, it shall appear that such average daily deposits for such year amounted to more than five times the capital stock and surplus of such bank on November 1st of such year, if the capital stock of such bank is not more than \$10,000.00, or more than six times such capital stock and surplus, if the capital is more than ten thousand dollars and less than twenty thousand dollars, or seven times such capital stock and surplus if the capital stock is twenty thousand dollars or more and less than forty thousand dollars, or eight times such capital stock and surplus if the capital stock is forty thousand dollars or more and less than seventy-five thousand dollars, or nine times such capital stock and surplus if the capital stock is seventy-five thousand dollars or more and less than one hundred thousand dollars, or ten times such capital stock and surplus if such capital stock is one hundred thousand dollars or more, then in any such case it shall be the duty of the State Banking Board to require that such State bank shall within sixty days thereafter increase

its capital by 25 per cent thereof, and it shall be the duty of the Commissioner to immediately furnish such State bank with a certified copy of the order making such requirement, and upon the receipt of such requisition the directors of such State bank shall, within the time required, cause such increase to be made in its capital stock, and if the same is not done within such time, it shall be unlawful for such bank to thereafter receive any deposits at any time when its total demand and time deposits shall in the aggregate amount to more than ten times its capital stock, or when after receiving such deposit its total demand and time deposits will then amount to ten times its capital stock.

Sec. 22. Section 30 of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas is hereby amended so as hereafter to read as follows:

"Section 30. It shall be the duty of the Commissioner of Insurance and Banking at least once in each quarter of each calendar year to cause each banking corporation, subject by law to examination, to be thoroughly and fully examined and any such corporation may be examined whenever such Commissioner may deem it necessary or expedient. Such Commissioner and all State bank examiners shall have power to administer oaths to any person whose testimony may be desired for the purpose of any such examinations. The expenses of every general or special examination shall be paid by the corporation examined in such amount as the Commissioner of Insurance and Banking shall certify to be just and reasonable. Provided such expenses shall be paid in proportion to the amount of the capital stock of the various corporations as follows: Those with a capital stock of \$10,000 shall not pay more than \$12.50; those with a capital stock of more than \$10,000 and not exceeding \$25,000 shall pay not more than \$15.00; those with a capital stock of more than \$25,000 and not exceeding \$50,000 shall not pay more than \$20.00; those with a capital stock of more than \$50,000 and not exceeding \$100,000 shall not pay more than \$30.00; those with a capital stock of more than \$100,000 and not exceeding \$250,000, shall not pay more than \$37.50; those with a capital stock of more than \$250,000 and not exceeding \$500,000 shall not pay more than \$75.00; those with a capital stock of more than \$500,000 and not exceeding \$1,000,000 shall not pay more than \$125.00; those with a capital stock of more than \$1,000,000 and not

exceeding \$2,000,000 shall not pay more than \$150.00; those with a capital stock of more than \$2,000,000 and not exceeding \$4,000,000 shall not pay more than \$200.00; and those with a capital stock exceeding \$4,000,000 shall not pay more than \$300.00.

"The permanent surplus of any such corporation shall be reckoned, in ascertaining the fees for examination, as a part of its capital stock. All sums collected as examination fees shall be paid by the Commissioner of Insurance and Banking directly into the State Treasury, to the credit of the General Revenue fund. Payments for salaries and expenses of examinations and for expense of the Commissioner of Insurance and Banking in enforcing this act shall be made upon the certificate of the Commissioner of Insurance and Banking by warrant on the Comptroller upon the State Treasurer.

"The result of each examination shall be certified by the examiner upon the record of the corporation examined and the report of all examinations made during each year shall be embodied in an annual report pertaining to banking matters, to be made by the Commissioner of Insurance and Banking to the Governor. The result of all such examinations shall be reported semi-annually to the Comptroller."

Sec. 23. Section 44 of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas is hereby amended so as hereafter to read as follows:

"Section 44. The Commissioner of Insurance and Banking shall from time to time appoint such number of State Bank Examiners as may be necessary to make the examinations of banking corporations required by law, which number shall at no time exceed one for each forty banking corporations then subject to examination under the laws of this State. As full compensation for the performance of the duties of examiners, each person so appointed shall be entitled to receive a salary of \$2000 per annum, besides necessary traveling expenses. An itemized account of such expenses shall be rendered monthly, under oath, by each examiner, and shall be approved by the Commissioner.

Sec. 24. No State bank shall make any loan or discount on the security of the shares of its own capital stock, or be the purchaser or holder of any such shares, unless such security or purchaser shall be necessary to prevent a loss upon a debt previously contracted in good

faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale, or, in default thereof, such State bank shall be considered to have its capital stock impaired to the extent of the par value of such shares.

Sec. 25. No State bank shall, at any time, be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses, or otherwise, except on account of demands of the nature following: (1) Money deposited with or collected by such State bank; (2) bills of exchange or drafts drawn against money actually on deposit to the credit of such State bank, or due thereto; (3) liabilities to the stockholders of such State bank on account of the stock held by them and for dividends and undivided profits.

Sec. 26. It shall be unlawful for any such bank to hypothecate or pledge as collateral security for money borrowed upon bills payable or certificates of deposit, or otherwise, its securities to an amount more than 50 per cent greater than the amount borrowed thereon; or for any State bank to issue or execute any bills or other evidence of indebtedness, secured or to be secured, by the pledge or hypothecation of any of its securities, which shall not contain a provision that in the event such State bank shall, for any cause, have its property and business taken possession of by the Commissioner, at any time before such pledge or hypothecation shall have been actually foreclosed, a grace of thirty days after the date of such taking possession, shall be allowed, in which such bank or Commissioner shall be permitted to redeem such securities so hypothecated or pledged by the payment of the amount due as principal and interest on such indebtedness.

Sec. 27. After this act shall take effect, it shall be unlawful for any State bank to make a loan, secured by the stock of any other banking corporation, if by the making of such loan the total of stock of such other banking corporation held by it as collateral, will exceed in the aggregate 10 per cent of the capital stock of such other banking corporation, unless the taking of a greater percentage of such capital stock as collateral shall be necessary to prevent loss upon a debt previously contracted, in good faith, and any such excess so

taken as collateral, or owned by such State bank, shall not be held as collateral or owned by it for a longer period than six months.

Sec. 28. After this act shall take effect, no State bank shall make a loan upon real estate security, directly or indirectly, which shall not be due and payable within three years from the date upon which such loan is made, or a loan upon other than real estate security which shall not be due and payable not more than one year from the date upon which such loan is made.

Sec. 29. Each director of a State bank, when appointed or elected, shall take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such corporation, and will not knowingly violate, or wilfully permit to be violated, any of the provisions of the law applicable to such State bank; and that he is the owner in good faith, and in his own right, of the number of shares of stock required by law, subscribed by him or standing in his name on the books of the corporation, and that the same is not hypothecated, or in any way pledged as security for any loan or debt, and, in case of re-election or reappointment, that such stock was not hypothecated, or in any way pledged as security for any loan or debt during his previous term. Such oath shall be subscribed by the director making it, and certified by the officer before whom it is taken, and shall be immediately transmitted to the Commissioner and filed and preserved in his office.

Sec. 30. The directors of every State bank shall hold a regular meeting once in each month at which it shall be the duty of the cashier, or some other officer designated for that purpose by resolution of the board of directors, duly recorded in its minutes, to prepare and submit to each director a written statement of all purchases and sales of securities, and of every discount and loan exclusive of discounts, and loans of less amounts than \$1000, if the capital stock of such State bank be \$100,000 or more, and exclusive of discounts and loans of less than 1 per cent of its capital stock, if it be less than \$100,000, made since the last regular meeting of the board, describing the collateral to the loans so made, as of the date of the meeting at which such statement is submitted. Such statement shall also contain a list giving the aggregate of loans and discounts to each individual, firm, corporation or association, whose liability to such bank has been increased since the last regular meeting of the board, \$1000

or more, if such State bank has a capital of \$100,000 or more, and 1 per cent of its capital stock, if the same be less than \$100,000, together with a description of the collateral to such loans held by such corporation at the date of the meeting at which such statement is submitted. A copy of such statement shall be immediately mailed to each director not present at such meeting, whether or not a quorum of such directors shall attend, and a copy thereof, together with a list of the directors present at such meeting and of those to whom such statements were mailed, verified by the affidavit of the officer or officers charged with the duty of preparing such statement, shall be filed with the records of such State bank within one day after such meeting, and be presumptive evidence of the matters therein stated.

Sec. 31. It shall be lawful for any State bank within the provisions of this act to use the following on its stationery and in its advertisements: "Non-interest-bearing and unsecured deposits guaranteed by the State bank guaranty fund of the State of Texas."

Sec. 31a. Section 50 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature is hereby amended so as hereafter to read as follows:

"Sec. 50. No bank and no bank or trust company or any member of either, shall, during the time it shall continue in banking or banking and trust operations, withdraw or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. If losses have at any time been sustained by any such association equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by a bank or bank and trust company while it continues its banking or banking and trust operations to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts. All debts due to any association, on which interest is past due and unpaid for a period of six months, unless the same are well secured and in process of collection, shall be considered bad debts within the meaning of this section.

The board of directors of any bank or trust company organized under this act may declare a semi-annual or quarterly dividend, if such dividend has been earned, provided the corporation be fully solvent without such earnings proposed to be divided. But they shall not declare a dividend at any time when the capital of such corporation shall have

become impaired to such an extent that it is not worth in good resources the full amount paid in after the payment of all liabilities, and any officer or director of such corporation who shall assent to declaring and paying dividends where the capital stock is so impaired, shall be personally liable to the creditors of the corporation to the amount of his proportion of the proposed dividend, if any loss occur by reason of the payment of such dividend."

Sec. 32. Section 53 of Chapter 10 of the General Laws of the First Called Session of the Twenty-ninth Legislature of the State of Texas is hereby amended so as hereafter to read as follows:

"Sec. 53. No incorporated bank, nor trust company organized under this act shall loan its money to any individual, corporation or company, directly or indirectly, or permit any individual, corporation or company to become at any time indebted or liable to it in a sum exceeding 25 per cent of its capital stock, or permit a line of loans or credits to any greater amount to any individual, corporation or company, a permanent surplus, the setting apart of which shall have been certified to the Commissioner of Insurance and Banking, may be taken and considered as a part of the capital stock for the purpose of this section; provided, such surplus is in amount not less than 50 per cent of the capital stock of said bank; provided, that the provisions of this section shall not be construed as in any wise to interfere with the rules and regulations of any clearing association in this State in reference to the daily balances between banks, and that this section shall not apply to balances due from correspondents subject to draft, and that the discounting of the following classes of paper shall not be included in the limitations placed upon loans or credits by this section, viz.:

"1. The discount of bills of exchange drawn in good faith against actual existing values.

"2. The discount of paper upon the collateral security of warehouse receipts, or other written instruments conveying a lien with the right to take immediate possession covering agricultural and manufactured products in store in elevators and warehouses, or conveniently deposited elsewhere under the following conditions:

"(a) That the actual market value of the property held in store and covered by such receipts, if other than cotton or cotton seed products, shall at all times exceed, by at least 25 per cent, the amount loaned upon the same,

and if it be cotton or cotton seed products, it shall at least equal 90 per centum of the amount loaned upon the same.

"(b). That the full amount of the loans shall at all times be covered by policies of fire insurance issued by companies admitted to do business in this State to the extent of their ability to cover such loans, and then by companies having sufficient paid up capital to be so admitted; and all such policies shall be made payable in case of loss to the bank or holder of such warehouse receipts or other instruments."

Sec. 33. The Commissioner of Insurance and Banking shall have the power from time to time to make such changes in the form of the statements required of each banking corporation as he may deem advisable.

Sec. 34. It shall be unlawful for any State bank or any of its officers, directors, or stockholders, or any one for such bank or for any of its officers, directors, or stockholders, to write, print, publish or advertise in any manner or by any means, or to permit any one for them, or for said bank to so write, print, publish or advertise that the noninterest-bearing and unsecured deposits of such bank are guaranteed other than by the State bank guaranty fund of the State of Texas.

Anyone violating the provisions of this section of this act shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred (\$100) dollars, nor more than five hundred (\$500) dollars, or by confinement in the county jail of not less than three (3) months, nor more than twelve (12) months, or by both such fine and imprisonment.

Sec. 35. Every president, director, cashier, teller, clerk or agent of any State bank who embezzles, abstracts, or wilfully misapplies any of the moneys, funds or credits of such State bank, or who, without authority from the directors, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment or decree; or who makes any false entry in any book, report or statement of such State bank, with intent in either case to defraud such State bank, or any other corporation, body politic, or any individual, person, firm or association, or to deceive any officer of such State bank, the Commissioner of Insurance and Banking, or any examiner or special agent, authorized by law to examine the affairs

of any such State bank, and every person who, with like intent, aids or abets any officer, clerk or agent in any violation of this section, shall be deemed guilty of a felony, and shall, upon conviction, be imprisoned in the State penitentiary for a term not less than five years, nor more than ten years.

Sec. 36. Any director of a State bank who shall either directly or indirectly borrow any of the funds of such bank in excess of 10 per cent of its capital and surplus without the consent of a majority of the directors of the bank first having been obtained and made a matter of record at a regular meeting of the board, or without the written consent of such majority of the directors other than the borrowers being jointly executed by them and filed in the archives of such bank before the loan is made, and any officer of a State bank who shall knowingly become indebted to such bank, directly or indirectly, in any sum whatever, without the consent of a majority of the board other than the borrower, obtained or recorded, or filed in like manner, and any officer or director of any such State bank who shall knowingly loan or assent to the loaning of any of its funds to any officer or to any director in excess of 10 per cent of its capital and surplus without such consent being first obtained and recorded or filed, or who shall knowingly permit any such officer or director to become indebted to the bank or liable to it without such consent, shall be deemed guilty of a felony and shall be punished by imprisonment in the State penitentiary for a term of not less than two years.

Sec. 37. Any officer, director or other agent or employe of any State bank, who knowingly and wilfully does any act as such officer, director, agent or employe, which is expressly forbidden by law, or wilfully or knowingly omits to perform any duty imposed upon him by law, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred (\$100) dollars, nor more than one thousand (\$1000) dollars, or by imprisonment in the county jail for not less than three, nor more twelve months, or by both such fine and imprisonment.

Sec. 38. Any officer or director of a State bank, who concurs in any vote or act of the directors of such State bank, or any of them, by which it is intended to make a loan or discount to any director of such State bank, or upon paper, upon which any such director is liable, or responsible to any amount exceeding the amount allowed by law; or

any director, officer or employe of any State bank who makes or maintains or attempts to make or maintain a deposit of such State bank's funds with any other bank or banking corporation on condition, or with the understanding, expressed or implied, with the bank or banking corporation receiving such deposit makes a loan or advance, directly or indirectly, to any director, officer or employe of the corporation so making, or attempting to make or maintain deposit, or any officer, or employe of any State bank who intentionally conceals from its directors any discounts or loans made by it between the regular meetings of its board of directors, or the purchase of any securities or the sale of any of its securities during the same period, or knowingly fails to report to its board of directors, when required to do so by law, all discounts or loans made by it, and all securities purchased or sold by it between the regular meetings of its board of directors, or any officer, director or employe of any State bank who shall wilfully and knowingly make any loan or discount for such State bank, at any time when the reserve of such bank required by law to be maintained by it shall be less than 25 per cent of its demand deposits, and until it shall, by collections, restore its lawful reserve, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than \$100 nor more than \$1000, or by imprisonment in the county jail for not less than three, nor more than twelve months, or by both such fine and imprisonment.

Sec. 39. Any State bank examiner, or special agent, who shall, knowingly and intentionally fail or refuse to notify the Commissioner of Insurance and Banking in writing of any violation of the criminal provision of this act or of any provision of the Penal Code of this State, within ten days after the same shall come to his notice or attention, unless such notice shall, within his knowledge, have been previously given by some other bank examiner or special agent, or any Commissioner of Insurance and Banking who shall knowingly and intentionally fail or refuse to notify in writing the county or district attorney charged by law with the duty of the prosecution thereof, of any such violation within ten days after the same shall come to his knowledge or attention, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than one hundred nor more than five hundred

dollars, or by imprisonment in the county jail not less than three nor more than twelve months, or by both such fine and imprisonment, and upon conviction shall be removed from office.

Sec. 40. Any officer, clerk or agent of any State bank who shall willfully certify to any check or checks before the amount thereof shall have been regularly entered to the credit of the drawer, upon the books of such State bank, shall be guilty of a felony, and upon such conviction thereof, shall be punished by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment in the State penitentiary for not more than one year, or by both such fine and imprisonment.

Sec. 41. Any State bank or banking and trust company, incorporated under the laws of this State, desiring to maintain a savings department or to use or continue to use the word "savings" as part of its corporate name, or in or as a part of any sign or advertisement, or in or upon any stationery used or to be used by it, shall establish and maintain a savings department in compliance with the provisions of this section. Such savings department may be established by the board of directors adopting a resolution providing therefor at a regular meeting, which shall contain a copy of this section, and a certified copy of which shall be filed in the office of the Commissioner of Insurance and Banking, and also recorded in the office of the county clerk of the county in which such bank or banking and trust company is located; such copies to be so filed by banks or banking and trust companies maintaining savings departments and using the word "savings" as above provided at the time this act shall take effect, and which desire to continue to do so within ninety days from the time this act shall take effect, and to be filed by banks desiring to establish such savings departments after this act shall take effect prior to the establishment of such department. All banks or banking and trust companies establishing or maintaining a savings department or using the word "savings" as above provided after this act shall take effect, or which, having such departments or so using the word "savings" at the time this act shall take effect, shall continue to maintain such departments or to so use the word "savings" more than ninety days thereafter, shall keep the business of such department entirely sep-

arate and distinct from the general business of the bank or banking and trust company, and shall keep all moneys received as such savings deposits, and the funds and securities in which the same may be invested at all times segregated from and unmingled with the other moneys and funds of the bank or banking and trust company, and may invest not more than 85 per cent of the total amount of such savings deposits in any of the following classes of securities and not otherwise, to-wit:

1. In bonds or interest-bearing notes or obligations of the United States or of those for which the faith of the United States is pledged for the payment of principal and interest.

2. In bonds of any city, county, town or school district or other subdivision of this State, now organized or which may be hereafter organized, and which is now or may hereafter be authorized to issue bonds under the Constitution and laws of this State, which has not defaulted in the payment of any part of either principal or interest thereof, within five years previous to making such investment.

3. In bonds of the State of Texas or of any State in the Union that has not within the last five years previous to making such investment defaulted in the payment of any part of either principal or interest thereof.

4. In the first mortgage bonds of any steam or electric railroad, the income of which is sufficient to pay all operating expenses and fixed charges, which has its domicile in the State.

5. In bonds or notes secured by first mortgage, deed of trust, or other valid first lien or unincumbered improved real estate to run for a term not longer than ten years, situated in the State, worth at least twice the amount loaned thereon, such bonds or notes to be always accompanied by a complete abstract of title to the property mortgaged and an attorney's certificate or title insurance policy in some company incorporated under the laws of this State, certifying said bonds or notes to be a first lien on the land mortgaged.

It shall be the duty of the directors of such bank or banking and trust company, as soon as practicable, to invest the moneys and funds of such savings department, by purchase or otherwise, in the securities above prescribed and from time to time to sell and reinvest the proceeds of such investments, but for the purpose of meeting current demands in excess of the receipts, any of

the securities may be sold or taken up and replaced in cash by the bank or banking and trust company out of its general fund and there shall be kept on hand at all times not less than fifteen per cent of the whole amount of such deposits in actual cash, in such savings department.

It shall be lawful to require sixty days' written notice of the withdrawal of any savings deposit, as provided for in this section at the option of the bank or banking and trust company. In case of the insolvency or liquidation of any State bank or banking and trust company which shall establish or maintain a savings department under the terms of this section its savings depositors and the remainder after they have been paid in full, shall be applied in payment of claims of general creditors. It shall be the duty of the president or vice-president and the cashier of each State bank or banking and trust company maintaining a savings department under the provisions of this section to file with the Commissioner of Insurance and Banking not less than ten days after the first calendar month, a statement of the assets and liabilities of such savings department, upon a form to be prescribed by the Commissioner of Insurance and Banking, and it shall be unlawful for any officer of any State bank or banking and trust company to receive or assent to the receiving of any savings deposits, when the last preceding monthly statement, as herein provided for, is not conspicuously posted in the office or from where its business is transacted.

The directors of any bank or banking and trust company establishing or maintaining or continuing to maintain a savings department may provide that such rate of interest shall be paid on its savings deposits as it may see fit, payable at such periods and upon such terms and conditions as may be reasonable; provided, that in any case the earnings of such savings department are sufficient to pay any interest due upon any savings deposit such interest or the deficiency therein shall be paid by the bank or banking and trust company out of its general funds. At the end of any period for which such bank or banking and trust company may lawfully declare a dividend upon its stock it shall be proper to transfer to the general funds of such bank or banking and trust company all accumulated earnings of the said savings department after the payment or credit of all interest due and

accrued on savings deposits and the legitimate expenses of such departments have been provided for. In computing the aggregate amount of the average annual deposits of any bank or banking and trust company for the purpose of ascertaining whether or not it shall be required to increase its capital stock as provided in Section 17 of this act, the deposits of its savings department, as provided in this section shall not be included. All such savings departments shall be governed by the terms and provisions of this act so far as same are applicable and are not in conflict with the special provisions of this section, and shall also be governed by such provisions of this section, and shall also be governed by such provisions of the laws of this State applicable to savings banks as are not in conflict with any provision of this act, or of this section, and such reasonable rules and regulations for the control of such savings departments may be adopted and put in force by the board of directors at any regular meeting or by the stockholders at any annual meeting, provided that such rules and regulations shall not become effective until they have been submitted to the Commissioner of Insurance and Banking and by him approved.

It shall be unlawful for any officer or director of any bank or banking and trust company which shall establish or maintain or continue to maintain a savings department or which shall use or continue to use the word "savings" as provided in this section to knowingly misappropriate any moneys or funds belonging to such savings department or to use or consent to the use of any such moneys or funds otherwise than for the payment of lawful demands of savings depositors, and in the making of such investments as are prescribed in this section, and in the payment of such dividends to the shareholders as are allowed by law to be paid therefrom, or to borrow any of the funds belonging to such savings department, or to in any way be an obligor for moneys loaned by or borrowed of such savings department, or to receive or accept directly or indirectly any commission, brokerage, or other valuable thing or favor of any kind by reason or on account of any loan or investment made out of the funds of such savings department, or to sell to such savings department any securities or other investment, or wilfully and knowingly do or perform any act or transaction, by or as a result of which at any time, the assets of such savings department, including cash, shall not

at least equal in amount the deposits in such savings department, at least fifteen per cent of which shall be actual cash in such savings department.

Any officer or director of any State bank or banking and trust company who shall knowingly violate the provisions of this section shall be deemed guilty of a felony, and shall, upon conviction, be punished by imprisonment in the State penitentiary for a term of not less than one nor more than five years.

Sec. 41b. Neither the Commissioner of Insurance and Banking or any regularly appointed clerks or employees of the Department of Insurance and Banking, or any State bank examiner, shall at any time during his incumbency be financially interested directly or indirectly in any State bank or banking and trust company, subject to the supervision of the Department of Insurance and Banking, or knowingly be or become indebted, either directly or indirectly, to any such State bank or banking and trust company.

Any officer or employe named in this section violating its provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding \$500, and the venue in such case shall be in the county wherein such State bank or banking and trust company is located. The violation of the provisions of this section shall work a forfeiture of the office or position held by the person guilty of such violation.

Sec. 42. Any national bank in this State, approved by the Commissioner, may voluntarily avail its depositors of the protection of the State bank guaranty fund, by application to the State Banking Board, in writing, and the said application may be sustained upon terms and conditions in harmony with the purpose of this act, to be agreed upon by the State Banking Board, the Commissioner and the Comptroller of the Currency of the United States; provided, that in the event national banks should be required by Federal enactment to pay assessments to any bank guaranty fund of the Federal Government and thereby the deposits in national banks in this State should be guaranteed by virtue of Federal laws, that the national banks having availed themselves of the benefits of this act may withdraw therefrom and have returned to them the unused portion of all assessments levied upon and paid by said banks; however, should the courts

declare this section of the bill unconstitutional or unauthorized by law, or in conflict with any other section or provisions of this act, or with any existing banking laws of this State, then such decision shall affect only this section of the act.

Sec. 43. The fact that, if this act shall become a law, as much time as possible prior to the first day of January, 1910, will be necessary for the thorough and strict examination of all State banks, and other necessary preparation before that time, and the fact that there are now practically no criminal penalties provided for violating the provisions of the State banking laws, constitute an emergency and an imperative public necessity requiring that the constitutional rule regarding bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

(Floor Report.)

Austin, Texas, April 8, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Agricultural Affairs, to whom was referred

House bill No. 121, A bill to be entitled "An Act to prevent the keeping of certain fruit trees affected with yellows, crown-gall, black-knot, or any tree, shrub or plant infested with or by the San Jose scale, white fly, or other dangerous, injurious or destructive pests or diseases, and declaring such affected and infested trees, shrubs and plants a public nuisance, and making it the duty of the Commissioner of Agriculture or his agents or employes to seek out and destroy such trees, shrubs and plants, or cause the same to be done, or to have such affected or infested trees treated; and providing the manner of such treatment and destruction, and for certain investigations by the Commissioner of Agriculture; providing the manner of combating such diseases and pests, and preventing their spread and dissemination; providing for the inspection of orchards, nurseries, forest trees and greenhouse plants, and giving certificates to that effect; regulating alien individuals and alien nursery companies or corporations doing business in this State; regulating the importation of trees, shrubs, plants and all nursery stock from without the State, and regulating their transportation within the

State; forbidding the selling, consignment or shipping of nursery stock, cuttings, plants, shrubs, forest trees, evergreens, ornamentals and cut flowers without such certificate; providing for the fumigation of certain trees, shrubs and plants; defining a nursery and nursery stock; defining an agent for a nursery or nursery stock; defining a dealer in nursery stock; defining being in the nursery business; authorizing the Commissioner of Agriculture to adopt certain rules and regulations and to appoint a chief inspector of trees, shrubs and plants for this State, and prescribing and defining the qualifications of such chief inspector, and to employ other assistants, agents and experts and fixing their compensation; providing for fixing fees for inspection; fixing penalties for violation of any of the provisions of this act, and directing the disposal of the penalties collected under the provisions of this act; fixing the duties of city administrations, owner of parks and city residences, to obey rules and regulations of the Commissioner of Agriculture, and to co-operate with the Commissioner of Agriculture; providing that agents for nurseries shall have credentials and defining their duties; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass, and be not printed.

Mayfield, Chairman; Perkins, Willaey, Holsey, Paulus, Kellie, Murray, Cofer.

(Floor Report.)

Austin, Texas, April 8, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Educational Affairs, to whom was referred

House bill No. 122, A bill to be entitled "An Act creating an independent school district to be known as the Goliad Independent School District, including within its limits the unincorporated town of Goliad in Goliad county, and to provide for a board of trustees and other officers of such district, to authorize the board of trustees to levy, assess and collect special taxes, and to issue and dispose of bonds of such districts for the purpose of purchasing school sites and erecting, repairing, furnishing and equipping school buildings within the same, and to pay current expenses

in the maintenance and support of the public schools therein, and to further prescribe the duties and authorities of said board of trustees, and declaring an emergency."

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass, and be not printed.

Alexander, Chairman; Veale, Harper, Real, Bryan, Hume, Brachfield.

Committee Room,

Austin, Texas, April 8, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Insurance, Statistics and History, to whom was referred

House bill No. 123, A bill to be entitled "An Act amending Section 37 of an act passed by the Regular Session of the Thirty-first Legislature, approved March 22, 1909, so as to provide that no company shall transact the business of life insurance in this State whose charter authorizes it to do a fire, marine, lightning, tornado or inland insurance business, and that no company shall take fire, marine or inland risks, which is authorized to do a life or health insurance business in this State, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

HUDSPETH, Chairman.

Committee Room,

Austin, Texas, April 8, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 72, A bill to be entitled "An Act to amend Chapter 12, Title 51 of the Revised Civil Statutes of Texas, and declaring an emergency,"

And find the same correctly engrossed.

WARD, Chairman.

Committee Room,

Austin, Texas, April 8, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 85, A bill to be entitled "An Act creating and incorporating the

Bronte Independent School District, in Coke county, Texas," etc.,

And find the same correctly engrossed.
WARD, Chairman.

Committee Room,
Austin, Texas, April 8, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 86, A bill to be entitled "An Act creating and incorporating the Robert Lee Independent School District," etc.,

And find the same correctly engrossed.
WARD, Chairman.

Committee Room,
Austin, Texas, April 8, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 87, and find it correctly enrolled, and have this day, at 3 o'clock p. m., presented same to the Governor for his approval.

TERRELL, of McLennan, Chairman.

Following is the enrolled bill in full:

An Act to authorize any county or political subdivision, or other defined district of a county, upon a vote of two-thirds majority of the resident property taxpayers voting thereon, who are qualified electors of such county or political subdivision or defined districts of the county to issue bonds or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of such county or political subdivision or defined district thereof, and to levy and collect taxes to pay the interest on said bonds, and to provide a sinking fund for the redemption thereof for the purpose of constructing, maintaining and operating macadamized, graveled and paved roads and turnpikes or in aid thereof; creating road districts, making them bodies corporate; creating the office of road superintendent; providing that any county operating under a special road law may take advantage of any of the provisions of this act; repealing Senate bill No. 264; passed by the Regular Session of the Thirty-first Legislature, and House bill No. 727, passed by the Thirtieth Legislature, and all other laws and parts of

laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Any county in this State, or any political subdivision or defined district now or hereafter to be described and defined, of a county is hereby authorized and empowered to issue bonds or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of such county or political subdivision or defined district thereof, and to levy and collect such taxes to pay the interest upon such bonds and provide a sinking fund for the redemption thereof for the purposes of constructing, maintaining and operating macadamized, graveled or paved roads and turnpikes, or in aid thereof.

Sec. 2. Upon the petition of fifty or a majority of resident property taxpaying voters of any county or political subdivision or defined district of any county in this State, to the county commissioners court of such county, such court shall have the power, and it is hereby made its duty at any regular or special session thereof, to order an election to be held in such county, political subdivision or defined district thereof, to determine whether or not the bonds of such county or political subdivision or defined district thereof shall be issued in any amount not to exceed one-fourth of the assessed valuation of the real property of such county or political subdivision or defined district for the purpose of constructing, maintaining or operating of macadamized, graveled or paved roads and turnpikes, or in aid thereof; and at such election there shall also be submitted to such resident property taxpaying voters the question as to whether or not a tax shall be levied upon the property of said county, or political subdivision or defined district thereof, subject to taxation, for the purpose of paying the interest on said bonds and to provide a sinking fund for the redemption thereof, the amount of bonds proposed to be issued with rate of interest thereon and date of maturity shall be stated in the order ordering said election, and in the notice thereof.

Sec. 3. Notice of said election shall be given by publications in a newspaper published in the county for four successive weeks, and in addition thereto by posting notices at three public places

in the county, one of which shall be at the courthouse door for three weeks prior to said election, if said proposed issue of bonds and levy of taxes is for the entire county. If said proposed issue of bonds and levy of taxes is for any political subdivision, or defined district of the county notice of such election shall be given by publishing in a newspaper published in the political subdivision or defined district in which such bond issue is proposed, and if no newspaper is published in such political subdivision or defined district, then in some newspaper published in the county for four successive weeks, and by posting in at least three public places in such political subdivision or defined district of the county for three successive weeks prior to said election.

Sec. 4. The commissioners court of the county shall determine the time and place or places of holding such election; provided, no such election shall be held at any time less than thirty days from the time of making of the order ordering the election. The manner of holding said election shall be governed by the general laws of the State when not in conflict with the provisions of this act, and the returns of said election shall be made as now provided by law for making returns of elections held for the purpose of determining whether or not county bonds shall be issued.

Sec. 5. If, after the result of said election is known, it shall appear to the commissioners court of the county in which said election was held that two-thirds majority of the votes cast at such election were in favor of the issuance of bonds, it shall be the duty of said commissioners court, as soon thereafter as practicable, to issue said bonds on the faith and credit of said county, or of said political subdivision or defined district, now or hereafter to be described and defined within the State of Texas, and which may or may not include towns, villages or municipal corporations of the county, as the case may be, which said bonds shall run not less than twenty nor more than forty years with such option of redemption as may be fixed by the commissioners court, and said bonds shall bear not more than 5 per cent interest per annum, and which bonds shall be examined by the Attorney General of Texas, and registered by the Comptroller of Public Accounts of Texas. Such bonds when so issued shall continue in the custody of and under the control of the commissioners court

of the county in which they were issued, and shall be by said court sold to the highest and best bidder for cash, either in whole or in parcels, at not less than their par value, and the purchase money therefor shall be placed in the county treasury of such county to the credit of the available road fund of such county, or of such political subdivision or defined district of such county, as the case may be. Such funds shall be paid out by the county treasurer upon warrants drawn on such funds issued by the county clerk of the county, countersigned by the county judge, upon certified accounts approved by the commissioners court of the county, when such funds belong to the entire county, and when such funds belong to a political subdivision or defined district of a county, such funds shall be paid out by the county treasurer upon warrants issued by the county clerk upon certified accounts of the road superintendent of such road district and approved by the commissioners court of the county. The general laws of Texas relative to county bonds, not in conflict herewith, shall apply to the issuance, approval, registration, sale and payment of the bonds herein provided for.

Sec. 6. Before said road bonds shall be put on the market the county commissioners court of the county in which such election was held shall levy a tax sufficient to pay the interest on such bonds, and to produce a sinking fund sufficient to pay the bonds at maturity, and providing further that said tax herein authorized shall be assessed and collected in the same manner as now provided by law for the assessment and collection of other road taxes, if for a whole county, and if for a political subdivision, or other defined districts of a county, then it shall be assessed and collected as is now provided by law for the assessment and collection of common school district special local taxes. And it is hereby made the duty of such commissioners court to levy such tax; and it is hereby made the duty of the tax collector and assessor of such county wherein such taxes have been levied to assess and collect the same in the same manner, and at the same time as other taxes. And said taxes when so collected by such collector shall be by him paid over to the county treasurer of such county as and when other taxes are paid to the county treasurer. And the county treasurer of said county shall be custodian of all

funds collected by virtue of this law, and shall deposit the same with the county depository as county funds, and he shall pay the interest and principal, as it becomes due on such bonds, out of the funds so collected, in the same manner as the law directs in case of county courthouse bond funds.

Sec. 7. For the purpose of operating and being known under the provisions of this act, each political subdivision or defined district now or hereafter to be described and defined for the employment of this act in any county in this State shall be known as "Road District No. of County, Texas," and the bonds herein provided for in such political subdivision or defined district in any county shall be known as "Road Bonds of Road District No. of County, Texas," being definitely numbered and bearing the name of the county in which it is located. Provided, this section shall apply only to districts composing less than a county, and shall not apply to bonds issued hereunder by a whole county, which county bonds shall be known as "..... County Special Road Bonds," taking the name of the county issuing same.

For the purpose of this act any political subdivision of a county or defined district, now or hereafter to be described and defined, accepting the provisions of this act by voting such tax, is hereby made and created a body corporate, which may sue and be sued in like manner as counties, provided no road district created under the provisions hereof shall ever be held liable for torts.

The county commissioner in whose commissioner's precinct such political subdivision or defined district now or hereafter to be described and defined is located, shall be ex-officio road superintendent of said road district, with power to contract for and in behalf of such road district; provided, such contract shall not exceed the sum of \$50, which shall be approved by the commissioners court, and all contracts exceeding the sum of \$50 shall be awarded by the entire court, which contract shall be binding on said county, political subdivision or defined district when work is done by contract in any county, political subdivision or defined district bids shall be invited by publishing an advertisement in a newspaper or newspapers published in such county, and in a paper or papers outside the county when the commissioners court may deem it advisable to

do so, and the contract shall be awarded to the lowest and best bidder; provided, however, that the commissioners court shall have the right to reject any and all bids.

Sec. 8. Laws heretofore enacted and known as Senate bill No. 264, which was passed at the Regular Session of the Thirty-first Legislature and signed by the Governor on the 20th day of March, 1909, also House bill No. 727, passed by the Thirtieth Legislature, together with all other laws or parts of laws in conflict herewith, be and the same are hereby expressly repealed.

Sec. 9. Any county operating under a special road law may take advantage of any of the provisions of this act.

Sec. 10. The fact that there is no adequate law now on the statutes governing the issuance of bonds for road construction in political subdivision or defined districts of the various counties of the State constitutes an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, April 8, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 23, and find it correctly enrolled, and have this day, at 3 o'clock p. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

An Act to provide a system of electric power, electric lights and water works for the purpose of supplying electric power, electric light and water to the State Capitol, the General Land Office, Governor's Mansion, State University and the various public institutions of the State of Texas in the city of Austin and adjacent thereto; to create a board with authority to construct or have constructed or purchase and put in operation the necessary property, machinery and plant for such purpose, and with authority to lay mains and pipes and to erect poles and place wires across and along streets and alleys, public grounds and public highways in the city of Austin and public roads adjacent thereto, and to secure from the

owners, by purchase or condemnation proceedings, if necessary, the right to lay such mains and pipes and erect such poles and place such wires across private lands; to provide for the operation of such plant, to make an appropriation therefor, and to declare an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That a board to consist of the Governor, the Attorney General and Comptroller of Public Accounts is hereby created, to be known and designated as Water and Light Board, of which the Governor shall be chairman and a majority of said board will constitute a quorum for the transaction of business, and said board is hereby authorized to provide a system of water works, electric light and power for the purpose of supplying with power, light and water the State Capitol, the General Land Office, the Governor's Mansion, State University, and the various public institutions of the State of Texas in the city of Austin, and adjacent thereto; provided, said board shall have authority to confer with the water and light corporation heretofore and now furnishing water and light for the several State institutions in the city of Austin and adjacent thereto, with a view to making a contract for water and light for a period of not less than two nor more than four years, and if a contract satisfactory to said board can be made with such corporation for water and lights for said period at a rate satisfactory to said board, then such contract shall be made and no new plant constructed.

Sec. 2. Said board shall have authority to employ a competent engineer or engineers to prepare plans and specifications for said plant or plants, but before any contract is made for said plant, the said board shall advertise for bids therefor for thirty days in some daily newspaper published in the city of Austin, and the contract shall be awarded the lowest and best bidder; provided, that the board shall have the right to reject any and all bids, and the contractor or the person or corporation to whom such contract is awarded shall execute a bond with good and sufficient surety or sureties in the amount of his said bid, payable at the city of Austin, conditioned that the said contractor shall perform his contract according to the said plans and specifications and according to the terms of his said contract and to the satisfaction of said board. That said board shall have authority to make all such rules and reg-

ulations and orders as it may deem necessary and proper in the matter of said plans and specifications and the advertisement for said bids and in making of said contract and the performance thereof, not inconsistent with the provisions of this act.

Sec. 3. Said board is hereby authorized to employ such agents and assistants as may be deemed by them necessary to carry out the purpose of this act, in establishing and putting into operation the said water, light and power system and to pay them for their services such compensation as may be agreed upon, out of the appropriation hereinafter made.

Sec. 4. Said board is hereby fully authorized to lay such mains and pipes and erect poles and place wires as may be necessary to supply and convey water, light and power to the various public institutions and buildings herein referred to across and along the streets and public alleys of the city of Austin and other public highways in said city and adjacent thereto in such manner as not to obstruct the same or to interfere with the use of the same for public travel, except such obstruction and interference with public travel as may be reasonably necessary while engaged in putting down such mains and pipes and erecting such poles and placing such wires and for necessary repairs and replacements thereof; and also through and across any public grounds belonging to the State; and should it be necessary to lay such mains and pipes and erect such poles and place wires across any private lands, said board is hereby authorized to obtain and secure from the owners thereof the right of such use, for such compensation as may be agreed upon; and should said board not be able to secure from such owner or owners of private lands the use and privileges aforesaid or to agree with them as to the compensation, then they are hereby fully authorized and empowered to condemn the same, by proceedings to be instituted by the Attorney General under the direction of the board in the manner and in accordance with the procedure hereinafter provided for. The board shall pay out of the appropriations hereinafter made, such amounts as may be agreed upon with the owner of such lands as aforesaid, and such awards as may be made in such condemnation proceedings, but the awards in such condemnation proceedings shall not be paid unless the same are satisfactory to the board, and the foregoing provisions of this section shall also apply to public highways if

it should become necessary to pay the owner of the fee of such highway for such use, or to condemn the same for the uses and purposes aforesaid; provided, that in event the awards, or any one of them, of such condemnation proceedings are found satisfactory to said board, no property thus condemned shall be taken or used by the State until the same is first paid for; and provided further, that all streets, alleys and other thoroughfares shall be left in as good condition as they were before such improvements were made.

Sec. 5. Should said board for any reason, fail or be unable to agree with the owner or owners of any land as to the price to be paid for the use thereof as hereinaforesaid, then they shall take steps to condemn the same in the name of the State of Texas, and in order to effect this purpose it shall be the duty of said board to cause to be stated in writing the real estate or property, the use of which is sought to be taken, the name of the owner or owners thereof and the residence of such owner, if known, and file such statements with the county clerk of Travis county. Upon the filing of the statement provided for in this section, it shall be the duty of the county judge of said county, in term or vacation, to appoint three disinterested freeholders and qualified voters of Travis county as special commissioners to assess the damage to accrue to the property by reason of such condemnation. The special commissioners, as appointed to assess such damages, shall, in the proceedings, be governed and controlled by the laws in force in reference to the condemnation of the right of way for railroad companies and the assessment and damages therefor, and the proceedings shall be in accordance with such laws, the State of Texas occupying the position of the railroad company, and all laws in reference to the application for the condemnation of right of way of railroad companies, including the measure of damages, the service, actual or constructive, on the property owner, the right of appeal, and the like, not consistent with the provisions of this act, shall apply to the application by the State in these proceedings; but it is specially provided that in the event in the condemnation proceedings the damages assessed for the use of any tract or parcel of land shall, in the discretion of the board herein provided for, be deemed excessive and greater than a reasonable and adequate compensation therefor, said board shall declare and refuse to pay the same, and in such event the State of Texas shall pay the

court costs of such proceedings and no further action shall be taken thereunder.

Sec. 6. When such water, light and power system shall have been completed and ready to be put in operation, the same shall be placed under the control and supervision of the Superintendent of Public Buildings and Grounds, who shall provide for the operation of the same and the supplying of water, light and power to the various public buildings and institutions hereinbefore referred to under the general supervision and control of the Water and Light Board.

Sec. 7. It is hereby appropriated out of any money in the public treasury not otherwise appropriated, the sum of two hundred and fifty thousand (\$250,000) dollars, or so much thereof as may be necessary for the purpose of carrying out the provisions of this act, and the Comptroller shall issue warrants payable out of the same upon the order of the Governor as chairman of said board, for all expenses incurred under this act; provided, that no water, light or power shall be supplied to any private buildings or grounds.

Sec. 8. The said board shall have the power, and it shall be their duty, to prescribe and adopt rules and regulations for the supplying of water, light and power to the various institutions of the State herein aforesaid, and for the enforcement of the same and to alter and amend the same from time to time, in such manner as the board may deem necessary or proper.

Sec. 9. That the act of the Twenty-ninth Legislature of Texas, First Called Session, approved May 1, 1905, and appearing on page 18 of the General Laws of the Twenty-eighth Legislature, and entitled "An Act to provide a system of electric power, electric lights and water works for the purpose of supplying electric power, electric lights and water to the State Capitol, the General Land Office, Governor's Mansion and the various public institutions of the State of Texas in the city of Austin and adjacent thereto; to create a board with authority to purchase and place in operation the necessary property, machinery and plant for such purposes, and with authority to lay mains and pipes and to erect and place wires across and along the streets and alleys and public highways in the city of Austin and public roads adjacent thereto, and to secure from private owners, by purchase or condemnation proceedings, if necessary, the right to lay such mains and pipes and erect such poles and place such wires across private lands; to provide for the operation of such plant; to

make an appropriation therefor, and to declare an emergency," be and the same is hereby repealed; provided, that all contracts or rights under contracts, actions, claims and demands, penalties and forfeitures, which have been made or accrued under the said act, approved May 1, 1903, shall be vested in and prosecuted by the said Water and Light Board, hereby created for and in behalf of the State of Texas and no contract or rights under contracts, actions, claims or demands, penalties or forfeitures, shall be affected by the passage of this act.

Sec. 10. The fact that the public institutions of the State located at the city of Austin, or adjacent, should be provided with an adequate supply of water and electric light and power, and that the construction and putting in operation or the purchase of an independent plant by the State of Texas, as provided for in this act, will result in an enormous saving to the State and supply such institutions with an adequate supply of water and electric lights and power as provided for by this act, creates an emergency and an imperative public necessity, requiring bills to be read on three several days, and that this act shall take immediate effect; said constitutional rule is therefore hereby suspended, and it is enacted that this act shall take effect from and after its passage.

Committee Room,

Austin, Texas, April 8, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 84, "An Act to amend Section 2 of an act passed by the Regular Session of the Thirty-first Legislature, known as an act creating an independent school district in the county of Gonzales, State of Texas, to be known as the Nixon Independent School District, and to have all the powers, rights and duties of independent school districts formed by the corporations of towns and villages for free school purposes only, and declaring an emergency,"

And find it correctly enrolled, and have this day, at 3 o'clock p. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

PETITIONS AND MEMORIALS.

By Senator Adams:

Dublin, Texas, April 7, 1909.

Senator Adams, Austin, Texas.

Erath County Union now in session, composed of forty-two locals, requests you to support House bill No. 1.

H. M. CORTNEY, Secretary.

By Senator Sturgeon:

Selfs, Texas, April 6, 1909.

To the Honorable State Senate of Texas
—Greetings.

House bill No. 1, known as the Cureton bill, having passed the lower house of our Legislature and yet pending before your honorable body, we, the undersigned members of Selfs Farmers' Educational and Co-Operative Union No. 4982 and citizens of Fannin county, Texas, do hereby petition your honorable body to vote for the Cureton bill without any amendment, that the said bill may become a law of this State.

Numerously signed.

By Senator Perkins:

Emory, Texas, April 6, 1909.

Hon. Tom W. Perkins, Austin, Texas.

Dear Sir: We, the undersigned citizens, request you to vote for the Senter-Hume bill, requiring each bank to make its own bond to guarantee its depositors.

Numerously signed.

Celeste, Texas, April 6, 1909.

Hon. Tom W. Perkins, Austin, Texas.

Dear Sir: I write to ask you to stand pat on the Senter-Hume bill for bank guarantee of deposits, as it will make every bank responsible only for its own business, and not force other banks to become responsible for something they know nothing about.

I circulated a petition some days back to the business men of our little town, and had Mr. Cheatham forward to you. I never had but one man to refuse to sign the petition, and he said he was not posted enough to pass judgment on the matter. I am sure if I had time I could get 500 names to a petition against the Cureton-Love bill, and in this immediate vicinity, for when you approach a farmer who is not prejudiced, and who is posted on the matter, I find he is opposed to it.

Very truly yours,

M. K. HARRELL.